



Journal of the House

State of Indiana

114th General Assembly

First Regular Session

Thirty-first Meeting Day

Thursday Afternoon

March 17, 2005

The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Pastor John Ramsey, New Life Worship Center, Indianapolis, the guest of Representative Carolene R. Mays.

The Pledge of Allegiance to the Flag was led by Representative Mays.

The Speaker ordered the roll of the House to be called:

T. Adams	Klinker
Aguilera	Koch
Alderman	Kromkowski
Austin	Kuzman
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Bauer ☐	J. Lutz
Becker	Mahern
Behning	Mays
Bischoff	McClain
Borders	Messer
Borror	Micon
Bottorff	Moses
Bright	Murphy ☐
C. Brown	Neese
T. Brown	Noe
Buck	Orentlicher
Budak	Oxley
Buell	Pelath
Burton	Pflum
Cheney	Pierce
Cherry	Pond
Cochran	Porter
Crawford	Reske
Crooks	Richardson
Davis	Ripley
Day	Robertson
Denbo	Ruppel
Dickinson	Saunders
Dobis	J. Smith
Dodge	V. Smith
Duncan	Stevenson
Dvorak	Stilwell
Espich	Stutzman
Foley	Summers
Friend	Thomas
Frizzell	Thompson
Fry	Tincher
GiaQuinta	Torr
Goodin	Turner
Grubb	Ulmer
Gutwein	VanHaften
E. Harris	Walorski
T. Harris	Welch
Heim	Whetstone
Hinkle	Wolkins
Hoffman	Woodruff
Hoy	Yount ☐
Kersey	Mr. Speaker

Roll Call 247: 97 present; 3 excused. The Speaker announced a quorum in attendance. [NOTE: ☐ indicates those who were excused.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Monday, March 21, 2005 at 1:30 p.m.

T. HARRIS

Motion prevailed.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 24

Representative Foley introduced House Concurrent Resolution 24:

A CONCURRENT RESOLUTION honoring the Martinsville High School Academic Decathlon Team.

Whereas, The Martinsville High School Academic Decathlon Team captured the 2005 state championship in the large school division at Purdue University in West Lafayette, Indiana, finishing more than 2,000 points above its nearest competitor;

Whereas, This victory marks the eighth consecutive year that the Martinsville High School team has won the state championship title;

Whereas, In addition to winning the team state championship with the highest overall score and 54 individual medals, the team earned the highest team score in seven of the ten testing categories: art, music, language/literature, speech, essay, social science, and Super Quiz;

Whereas, Individual medal winners include: Cassandra Adamson, gold medals in essay, art, and Super Quiz; Bobbi Klein, gold medal in Super Quiz and bronze medals in speech and music; Kelli Lang, gold medals in language/literature and Super Quiz, silver medals in art and speech, and bronze medal in music; Josh Blanford, gold medal in Super Quiz and bronze medals in art, speech, social science, and math; Sadie Davis, gold medals in essay, speech, music, social science, and Super Quiz and silver medals in overall individual, art, and language/literature; Andy Lane, gold medals in overall individual, interview, math, and Super Quiz and silver medals in art, speech, music, and social science; Cleveland Dietz, gold medals in overall individual, art, music, language/literature, social science, and Super Quiz and silver medals in economics and essay; Kyle Purdue, gold medal in Super Quiz, silver medals in art, music, and language/literature, and bronze medals in overall individual, social science, and economics; Caitlin Thompson, gold medal in Super Quiz, silver medals in overall individual, language/literature, speech, and social science, and bronze medals in art and economics;

Whereas, As Indiana's highest scoring team, Martinsville High School won the right to represent Indiana in the national championship in Chicago, Illinois, where the team will compete against other state champions and the champion from British Columbia, Canada;

Whereas, Coach Wayne Babbitt emphasizes that, even though individuals on the team have accomplished great things, the team's success is due to the effort put forth by the entire team;

Whereas, Coach Babbitt also stresses that, in addition to the honor of winning, the value of the Academic Decathlon is that it prepares the participants for college and later life by emphasizing good study skills and learning new subjects; and

Whereas, This state title is a continuation of the long line of successes achieved by the Martinsville High School academic teams: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana General Assembly congratulates the Martinsville High School Academic Decathlon Team for capturing the state championship for the large school division in the Hoosier Academic Decathlon state championship for the seventh consecutive year and wishes the team members continued success in all their future endeavors.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to team members Kelli Lang, Cassandra Adamson, Bobbi Klein, Sadie Davis, Caitlin Thompson, Josh Blanford, Cleveland Dietz, Andy Lane, and Kyle Purdue, coach Wayne Babbitt, and the principal of Martinsville High School.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsor: Senator Bray.

House Resolution 23

Representative Duncan introduced House Resolution 23:

A HOUSE RESOLUTION to honor and recognize Catherine Dickey for her many years of service to the State of Indiana.

Whereas, Catherine Dickey, an esteemed resident of Batesville, Indiana is honored and recognized for her many years of service to the State of Indiana;

Whereas, Catherine Dickey graduated from Brookville High School in 1945;

Whereas, Catherine Dickey put herself through Miller's Business College in Cincinnati;

Whereas, Catherine Dickey worked for Western Southern Publishing Company in Cincinnati;

Whereas, Catherine Dickey married Donald F. Dickey in 1948 and is the mother of seven children;

Whereas, Catherine and Donald Dickey have resided in Batesville their entire married life;

Whereas, Catherine Dickey's German heritage is demonstrated by her astuteness and her ability to excel at most everything she pursues;

Whereas, Catherine Dickey is the township trustee for Laughery Township in Ripley County;

Whereas, Catherine Dickey has been an inspector at the election polls for twenty years;

Whereas, Catherine Dickey worked for the Batesville License Branch for twenty-seven years and retired on May 29, 2004;

Whereas, Catherine Dickey's many years of service as a State Employee led to strong friendships with both her co-workers and customers;

Whereas, Catherine Dickey is a devoted church-going woman and has always given back to her community; and

Whereas, The success of the State of Indiana, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication and service of people like Catherine Dickey who use their considerable talents and resources to serve others: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives does honor and recognize Catherine Dickey for her many years of service to the State of Indiana.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to Catherine Dickey.

The resolution was read a first time and adopted by voice vote.

House Resolution 24

Representatives Welch and Grubb introduced House Resolution 24:

A HOUSE RESOLUTION recognizing the Indiana Organ Procurement Organization for its expertise in the specialized field of healthcare and organ and tissue donation.

Whereas, The Indiana Organ Procurement Organization (IOPO) is the nonprofit health service that is responsible for facilitating organ and tissue donation throughout Indiana and serving as the link between those who selflessly give the gift of life and those who so urgently need it;

Whereas, The IOPO, together with more than 130 community hospitals, contributes to a vigorous effort to improve the process of organ and tissue donation so that more lives may be saved;

Whereas, In 2004 there were 161 Indiana organ donors, from whom 522 organs were recovered and made available for life-saving transplants, including 50 heart transplants, 62 lung transplants, 133 liver transplants, 50 pancreas transplants, 223 kidney transplants, and four intestinal transplants;

Whereas, More than 600 Hoosiers are currently waiting for a life-saving organ transplant; and

Whereas, The IOPO is a national leader in developing quality improvements for the safe and effective donation and transplantation of organs and tissues, resulting in a 60% increase in the number of organs recovered for transplantation since 2001: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the members of the Indiana House of Representatives wish to give special recognition to those Hoosiers who, with their donation of organs and tissues, helped life begin anew for others. It is because of the generosity of these caring Hoosiers and their families that we remember that to live life is to give life.

SECTION 2. That the members of the Indiana House of Representatives wish to thank the Indiana Organ Procurement Organization for its efforts on behalf of Hoosiers who are in need of organ or tissue donations.

SECTION 3. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to the Indiana Organ Procurement Organization.

The resolution was read a first time and adopted by voice vote.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:05.m. with the Speaker in the Chair.

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 10 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 11 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 12 and 30 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 13 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 16 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 21 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 26 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 27 and 33 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 29 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 34 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 39 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolution 41 and the same is herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 25

Representative V. Smith introduced House Concurrent Resolution 25:

A CONCURRENT RESOLUTION urging municipalities and local

governments to adopt ordinances to restrict smoking in restaurants and public places.

Whereas, Secondhand smoke is responsible for more than 38,000 deaths in the United States annually;

Whereas, It is the duty of government to protect all citizens, particularly children, from the dangers of secondhand smoke in restaurants and public places;

Whereas, It has been shown that ventilation systems do not provide adequate protection from secondhand smoke;

Whereas, Workers who work in smoke-filled restaurants have cancer rates four times greater than workers in office buildings where smoking is prohibited;

Whereas, Workers should not be forced to choose between having a job and protecting their health;

Whereas, Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease, including heart disease, stroke, respiratory disease, and lung cancer, in healthy nonsmokers;

Whereas, The Center for Disease Control and Prevention recommends implementing smoking bans as a way of reducing tobacco use and secondhand smoke exposure;

Whereas, Ten states, including California, Delaware, Maine, Massachusetts, Connecticut, Rhode Island, and New York, several countries, including Ireland, New Zealand, and Sweden, and many communities across America have passed bans on smoking in all workplaces, including restaurants and bars;

Whereas, Philip Morris Tobacco Company concedes that, "conclusions of public health officials concerning environmental tobacco smoke are sufficient to warrant measures that regulate smoking in public places"; and

Whereas, We all have the right to breathe clean, safe, smoke-free air: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the members of the Indiana General Assembly urge municipalities and local governments to adopt ordinances to restrict smoking in restaurants and public places.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit a copy of this resolution to all 92 county councils.

The resolution was read a first time and referred to the Committee on Local Government.

House Resolution 25

Representatives Buell and Turner introduced House Resolution 25:

A HOUSE RESOLUTION to urge the IHSAA to reestablish a single class basketball tournament in Indiana in addition to the current class basketball tournament.

Whereas, Indiana has a proud tradition of a single elimination basketball tournament for high school basketball;

Whereas, Indiana's current class basketball tournament serves a useful purpose, but need not be the only basketball tournament sanctioned by the Indiana High School Athletic Association (IHSAA);

Whereas, Indiana has a long tradition of David versus Goliath basketball games, exemplified by the movie Hoosiers;

Whereas, A one class basketball tournament not only has a long Hoosier tradition, but breeds the type of rugged individualism and struggle against traditional odds which is personified by Indiana's historic tourney; and

Whereas, Indiana needs the enthusiasm and spirit a single tourney always created among our high school athletes and their enthusiasts: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. The House of Representatives urges the IHSAA to

create a single class basketball tournament in Indiana in addition to its current class basketball tournament.

SECTION 2. The Principal Clerk of the House of Representatives is directed to transmit a copy of this resolution to the Indiana High School Athletic Association.

The resolution was read a first time and referred to the Committee on Education.

Senate Concurrent Resolution 10

The Speaker handed down Senate Concurrent Resolution 10, sponsored by Representatives Walorski and Welch:

A CONCURRENT RESOLUTION encouraging shopping malls, stores, and local units of government throughout Indiana to adopt a "Code Adam" child safety protocol.

Whereas, The "Code Adam" program was created by Wal-Mart, Inc. in 1994;

Whereas, The program, named in memory of Adam Walsh, a six-year-old Florida boy who was abducted from a shopping mall and murdered in 1981, is used as a preventive tool against child abductions in more than 45,000 stores across the nation;

Whereas, The program protocol is activated when a customer reports a missing child to a store employee;

Whereas, An alert is announced over the public address system and a brief description of the child is obtained and provided to all designated employees, who immediately stop their normal work to search for the child and monitor all exits to help prevent the child from leaving the store;

Whereas, If the child is not found within the first ten minutes during a storewide search, or if the child is seen accompanied by someone other than a parent or guardian, store personnel contact local law enforcement and request assistance;

Whereas, The program has proven extremely successful in thwarting many attempted abductions through the issuance of a "Code Adam" alert in commercial establishments; it continues to be implemented in stores across the country with the help of the National Center for Missing and Exploited Children;

Whereas, According to the United States Department of Justice, approximately 4,600 children are abducted annually by nonfamily members; and

Whereas, Indiana should take all possible steps to ensure the safety of Hoosier children: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly encourages all shopping malls, stores, and local units of government to adopt the "Code Adam" child safety protocol.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to the National Center for Missing and Exploited Children, the National Federation of Independent Business, the Association of Indiana Counties, the Indiana Association of Cities and Towns, and the Indiana Chamber of Commerce.

The resolution was read a first time and referred to the Committee on Public Safety and Homeland Security.

Senate Concurrent Resolution 11

The Speaker handed down Senate Concurrent Resolution 11, sponsored by Representatives Pond and Ripley:

A CONCURRENT RESOLUTION urging the Indiana department of transportation to designate Interstate Highway 469 encircling Fort Wayne as the Ronald Reagan Expressway.

Whereas, Ronald Wilson Reagan was born on February 6, 1911, in Tampico, Illinois, to Nelle and John Reagan and died on June 5, 2004, at the age of 93;

Whereas, Ronald Reagan, the 40th President of the United States, was a man of the people who worked throughout his life to preserve freedom and advance public good;

Whereas, President Reagan experienced life from many different vantage points, having been employed as an entertainer, a union leader, a corporate spokesman, Governor of California, and the President of the United States;

Whereas, As a young man, President Reagan was a lifeguard at Rock River in Lowell, Illinois, where he saved the lives of 77 swimmers. He later enrolled in Eureka College, where he played football, acted in amateur theater, and graduated with a bachelor's degree in economics and sociology;

Whereas, On March 4, 1952, President Reagan married his second wife, Nancy Davis, who was his great love and confidante and companion. President Reagan was the father of four children: Maureen, Michael, Patti, and Ronald Prescott;

Whereas, The presidency of Ronald Reagan was distinguished by many memorable accomplishments, including the appointment of Sandra Day O'Connor as the first female United States Supreme Court Justice and the historic tax cuts that overhauled the Federal tax code and reduced tax rates for most taxpayers, removing 6,000,000 Americans from the tax rolls;

Whereas, During his presidency, inflation fell, interest rates declined, and the stock market hit an all-time high;

Whereas, On March 30, 1981, only two months into his presidency, President Reagan survived an assassination attempt, and upon meeting Nancy in the hospital quipped with characteristic good humor, "Honey, I forgot to duck.";

Whereas, During summit meetings with Soviet Union President Mikhail Gorbachev in December 1986, President Reagan signed a treaty to eliminate intermediate-range nuclear forces;

Whereas, President Reagan, a steadfast opponent of communism, resolved to defeat the "Evil Empire";

Whereas, Through President Reagan's constant vigilance and his unfailing belief in government for the people and by the people, the Berlin Wall came tumbling down and the Cold War ended victoriously; and

Whereas, Ronald Wilson Reagan, father, husband, actor, and dedicated public servant, restored the pride, optimism, and strength of the United States and earned the deep respect and affection of his fellow citizens: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the members of the Indiana General Assembly recognize the many accomplishments of President Ronald Reagan and wish to honor him in a way befitting a man of his stature.

SECTION 2. That the General Assembly urges the Indiana department of transportation to designate Highway 469 encircling Fort Wayne as the Ronald Reagan Expressway.

SECTION 3. That copies of this resolution be transmitted by the secretary of the senate to the commissioner of the Indiana department of transportation and Graham Richard, the mayor of Fort Wayne.

The resolution was read a first time and referred to the Committee on Roads and Transportation.

Senate Concurrent Resolution 12

The Speaker handed down Senate Concurrent Resolution 12, sponsored by Representatives Hinkle, Ruppel, and Bischoff:

A CONCURRENT RESOLUTION urging the establishment of an interim study committee to study upgrading fire safety for school dormitories and senior care facilities.

Whereas, Fire resistant housing construction is needed for school dormitories and facilities that provide personal care services to senior residents: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the legislative council is urged to establish a committee to study upgrading fire safety for school dormitories and

buildings that provide housing, meals, and personal care services to senior residents (excluding nursing, medical, or hospice care, psychological counseling, distribution of medications, or rehabilitative or restorative therapies). With regard to these dormitories and buildings, the committee shall study upgrading state building code requirements for new construction and remodeling of existing buildings, including:

- (1) the installation of smoke and fire alarms;
- (2) the installation of automatic sprinkler systems;
- (3) increasing the use of noncombustible building elements;
- (4) increasing the fire resistance rating of building elements; and
- (5) any other aspect of fire safety the committee considers necessary.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council and shall issue a final report when directed to do so by the council.

The resolution was read a first time and referred to the Committee on Public Safety and Homeland Security.

Senate Concurrent Resolution 13

The Speaker handed down Senate Concurrent Resolution 13, sponsored by Representatives Ayres, Lehe, and Kuzman:

A CONCURRENT RESOLUTION urging the United States Congress to direct the Federal Communications Commission to adopt regulations or issue an order requiring multichannel video programming distributors that provide service in a television market in a state to carry at least one affiliate of a broadcast network with its city of licensure reference point located in that state.

Whereas, The Federal Communications Commission (FCC) has jurisdiction over the provision of service by multichannel video programming distributors (MVPDs), including cable operators and satellite carriers;

Whereas, The FCC prescribes "must carry" regulations (47 CFR 76.51 et seq.) requiring MVPDs to carry local commercial television stations;

Whereas, The FCC regulations provide that if a cable operator elects to carry an affiliate of a broadcast network to fulfill the operator's obligations, the operator must carry the affiliate of the broadcast network with its city of licensure closest to the principal headend of a cable system;

Whereas, In Indiana communities bordering other states, the broadcast network with its city of licensure closest to the principal headend of a cable system may be located in a neighboring state;

Whereas, The FCC regulations provide that a satellite carrier is not required to carry in a single, local market the signals of more than one commercial television broadcast station affiliated with a particular television network unless the stations are licensed to communities in different states, and that the carrier may select which network affiliate in a market it shall carry;

Whereas, Under the FCC regulations, cable and satellite subscribers in Indiana communities bordering other states may not receive a local commercial television station that is an affiliate of a broadcast network with its city of licensure located in Indiana;

Whereas, Under the FCC regulations, subscribers in Indiana border communities may not have access to a network affiliate that provides news coverage of events and issues affecting Indiana;

Whereas, In enacting the Cable Television Consumer Protection and Competition Act (47 U.S.C. 521 et seq.), the United States Congress directed the FCC to "afford particular attention to the value of localism" when responding to requests to include or exclude particular communities in a television broadcast station's television market;

Whereas, Congress further instructed the FCC, in determining the local needs of a community, to consider whether there exists any other station eligible to be carried in the community that "provides news coverage of issues of concern" to the community; and

Whereas, Under existing FCC regulations, the local news and informational needs of subscribers in Indiana border communities are not being adequately served: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly urges the United States Congress to direct the Federal Communications Commission to adopt regulations or issue an order requiring multichannel video programming distributors, including cable operators and satellite carriers, that provide service in a television market in a state to carry at least one affiliate of a broadcast network with its city of licensure reference point located in that state.

SECTION 2. That the Secretary of the Senate shall transmit a copy of this resolution to the members of the Indiana congressional delegation.

The resolution was read a first time and referred to the Committee on Public Policy and Veterans Affairs.

Senate Concurrent Resolution 16

The Speaker handed down Senate Concurrent Resolution 16, sponsored by Representatives Ayres, Kromkowski, and T. Adams:

A CONCURRENT RESOLUTION urging the Congress of the United States to place a moratorium on new free trade agreements, to investigate and review current free trade agreements and policies of the United States, to investigate and review participation of the United States with international trade organizations, and to ensure that the agreements, policies, and participation are in the best interests of the citizens of Indiana and the United States.

Whereas, Between January 2000 and January 2004, Indiana lost approximately 102,000 manufacturing jobs;

Whereas, Manufacturing results in three to seven jobs created for each manufacturing job;

Whereas, Free trade agreements and policies of the United States with other nations have severely affected United States manufacturing industries and the workers the industries employ;

Whereas, Participation by the United States in international trade organizations may imperil the success of United States manufacturing;

Whereas, Foreign nations, such as China, have engaged in a wide range of unfair trading practices, including the manipulation of currency, subsidization of industries, and the dumping of below-cost subsidized products into the United States market;

Whereas, United States manufacturers cannot compete with foreign companies who pay a fraction of the salaries paid to United States manufacturing employees, provide no health benefits to their workers, do not have to comply with safety and environmental regulations, pay no pensions, and receive government subsidies; and

Whereas, The citizens of Indiana are harmfully affected by trade agreements and policies between the United States and foreign nations, resulting in the closing of many Indiana manufacturing industries, which negatively affects our families, our communities, and the state when thousands of workers lose their jobs: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly urges the Congress of the United States to place a moratorium on all new trade agreements, to investigate and review all current free trade agreements and policies of the United States, to investigate and review participation of the United States in international trade organizations, and to ensure that the agreements, policies, and participation are in the best interests of the citizens of the Indiana and the United States.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to the President of the United States, members of the Congress of the United States, the presiding officers of each house of Congress, and each member of the Indiana congressional delegation.

The resolution was read a first time and referred to the Committee on Commerce, Economic Development and Small Business.

Senate Concurrent Resolution 21

The Speaker handed down Senate Concurrent Resolution 21, sponsored by Representative Lehe:

A CONCURRENT RESOLUTION to honor Donald E. Bales, Jr. as Midwest Regional Athletic Director of the Year.

Whereas, Donald E. Bales, Jr. has served as athletic director for Lowell High School for over 23 years;

Whereas, during his tenure, Mr. Bales has made a significant impact on the lives of the students he has worked with at Lowell High School. Through his actions and involvement, he has demonstrated and encouraged leadership, work ethic, time management and service;

Whereas, Mr. Bales has proven himself to be an exceptional leader in his community as well, helping to implement many new athletic programs for children of all ages. In addition, he started the Letterman's Club, which provides service to the Tri-Creek Community and helps to fund scholarships;

Whereas, Mr. Bales has contributed to the field of athletic administration on the local, state and national level as a member of the Indiana Interscholastic Athletic Administrators Association, the Indiana Baseball Coaches Association, the Indiana Basketball Coaches Association and the National Association for Sport and Physical Education/American Alliance for Health, Physical Education, Recreation and Dance; and

Whereas, in recognition of his many contributions to the field of athletics, Donald E. Bales, Jr. was named the Midwest Regional Athletic Director of the Year by the National Association for Sport and Physical Education: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly recognizes the outstanding service and accomplishments of Donald E. Bales, Jr. and congratulates him on being named the Midwest Regional Athletic Director of the Year.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to Donald E. Bales, Jr., Barb Spencer, Principal of Lowell High School and Dr. Alice Neal, Superintendent of Tri-Creek School Corporation.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 29

The Speaker handed down Senate Concurrent Resolution 29, sponsored by Representatives Leonard and Ruppel:

A CONCURRENT RESOLUTION urging the Department of Transportation to name State Road 105 the "Chris Schenkel Highway."

Whereas, Chris Schenkel was born in Bippus, Indiana, in 1923. Raised in Indiana, he graduated from Purdue University and has received an honorary degree from Ball State University;

Whereas, Chris Schenkel has enjoyed a broadcasting career that has taken him around the world and has spanned nearly five decades. During his career, he was the voice of New York Giants football for 13 years and hosted the Pro Bowlers' Tour for its entire 37-year run on ABC;

Whereas, Chris Schenkel also covered ten Olympic Games and virtually every major sporting event in America, including countless NBA games, boxing, horse racing, the Indianapolis 500, and major golf and tennis championships;

Whereas, Chris Schenkel has won nearly every award given in broadcasting, has been inducted into 14 different halls of fame, was the first ever inductee into the Auburn Cord Dusenber Museum, is an honorary chieftan of both the Miami Nation of Indians and the Sac/Fox Tribe, is the 1992 Lifetime Achievement Emmy Award winner, and one of the 2003 Indiana Living Legends awarded by the Indiana Historical Society;

Whereas, Although Chris Schenkel's career took him around the world, his thoughts were never far from his Hoosier home. In 1972, after 20 years in Manhattan, Chris Schenkel and his family returned to Indiana and reside at Lake Tippecanoe; and

Whereas, Chris Schenkel is a true Hoosier treasure and the pride of Bippus: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly recognizes the outstanding contribution of Chris Schenkel to the world of broadcasting, as well as his lifelong commitment to his Hoosier roots.

SECTION 2. That the Indiana General Assembly requests the Indiana Department of Transportation to name State Road 105 the "Chris Schenkel Highway."

SECTION 3. The Secretary of the Senate is hereby directed to transmit copies of this resolution to Chris and Fran Schenkel and the Commissioner of the Indiana Department of Transportation.

The resolution was read a first time and referred to the Committee on Roads and Transportation.

Senate Concurrent Resolution 31

The Speaker handed down Senate Concurrent Resolution 31, sponsored by Representatives Borders and Woodruff:

A CONCURRENT RESOLUTION requesting the United States Congress to reauthorize the Abandoned Mine Land Fund (AML).

Whereas, Abandoned mine lands, mined before August 4, 1977, are a significant health and environmental hazard in southwest Indiana;

Whereas, The AML program eliminates these hazards by cleaning up problems at old mine sites including open mine shafts, orange streams, bad drinking water, and dangerous highwalls;

Whereas, The AML program has greatly benefitted Indiana by cleaning up over 800 abandoned mine sites at a cost of over \$88,000,000;

Whereas, Over 400 abandoned mine sites still exist in southwest Indiana, and the estimated cost for cleanup of these abandoned mines is still over \$50,000,000; and

Whereas, The AML program will expire June 30, 2005, unless the United States Congress acts to reauthorize the AML fund: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly urges the United States Congress to reauthorize the Abandoned Mine Land Fund.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this resolution to members of Indiana's congressional delegation.

The resolution was read a first time and referred to the Committee on Natural Resources.

Senate Concurrent Resolution 34

The Speaker handed down Senate Concurrent Resolution 34, sponsored by Representatives Wolkins and Stilwell:

A CONCURRENT RESOLUTION urging Congress to pass multiple emissions legislation that will further reduce SO₂ and NO_x and regulate mercury from the nation's coal fired power plants.

Whereas, In Indiana, approximately 95% of the electricity generated comes from coal-fired power plants, second only to West Virginia, compared with 70% for all upper Midwest states and 52% for the nation;

Whereas, Indiana has the ninth lowest retail electricity prices in the nation, 24% below the national average, and Indiana utilities consume over 48 million tons of coal a year with over 32 million tons of that coal coming directly from Indiana mines;

Whereas, Since the Clean Air Act amendments of 1990, SO₂ emissions are down over 45%, and NO_x emissions have been reduced by roughly 70%;

Whereas, Over \$3 billion have been spent to reduce emissions since 1990, and it is estimated an additional \$3 billion will be spent to comply with new pending Environmental Protection Agency regulations; current law uses multiple regulatory approaches to reduce the same emissions, resulting in uncertainty;

Whereas, Despite the development of new regulations by the EPA to control SO₂, NO_x, and mercury, we anticipate a protracted court battle before any final implementation, creating uncertainty for the states and utilities, and we anticipate that states will be increasingly tempted to point fingers upwind to secure emission reductions from sources outside their economic or geographic boundaries;

Whereas, Using the NO_x caps set in Clear Skies, Indiana utility NO_x emissions would be reduced by 60% in Phase I and 70% in Phase II based on actual 2003 levels; using EPA projections, all 24 counties out of attainment now should be in attainment for ozone by the first phase in 2010;

Whereas, Under the new fine particles nonattainment designations of January 2005, 14 full counties and five partial counties in Indiana were labeled as nonattainment; with the SO₂ caps set in Clear Skies, Indiana utility SO₂ emissions would be reduced by 69% in Phase I and 79% in Phase II, again based on actual 2003 levels;

Whereas, Using projections from EPA for the impact of Clear Skies, all counties in Indiana should be in attainment for fine particles by Phase I in 2010;

Whereas, Another benefit that a multiple emissions bill will provide is mercury reductions, enabling utilities to integrate all three emissions reductions required under Clear Skies to achieve even more significant reductions and cost savings than experienced from the Acid Rain title in the 1990 Clean Air Act Amendments, which minimizes the financial impact to consumers;

Whereas, A phased-in reduction over a reasonable period will provide the appropriate time needed to build scrubbers, SCRs, and particulate controls, helping to achieve a large portion of mercury reductions; this approach also provides the time needed to test new mercury specific controls that are necessary to meet the more stringent Phase II cap;

Whereas, These reductions are not cost free; therefore, we need to ensure that the caps are achievable; and

Whereas, The Indiana General Assembly urges the United States Congress to work to make multiple emissions legislation achievable and balanced and to enact federal legislation now. Do not disadvantage Indiana coal or the economies that thrive on that industry: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That multiple emissions legislation would replace existing piecemeal regulation that is unnecessarily costly and is frequently challenged in the courts. Utilities will gain business certainty and emissions reductions will be made sooner and less expensively by relying on the proven market-based emissions trading to cut the cost of reducing emissions.

SECTION 2. That multiple emissions legislation is good for the environment, for the future of coal, and for the jobs of thousands of Hoosiers who depend on coal's use to generate affordable electricity.

SECTION 3. That the Indiana General Assembly urges the United States Congress to pass multiple emissions legislation that will further reduce SO₂ and NO_x and regulate mercury from the nation's coal fired power plants for the first time.

SECTION 4. That copies of this resolution be transmitted by the Secretary of the Senate to the members of the Indiana Congressional delegation.

The resolution was read a first time and referred to the Committee on Environmental Affairs.

Senate Concurrent Resolution 41

The Speaker handed down Senate Concurrent Resolution 41, sponsored by Representatives T. Brown, Klinker, and Micon:

A CONCURRENT RESOLUTION honoring Dr. Elizabeth (Betty) J. Doversberger on the occasion of her retirement as Chancellor of Ivy Tech State College-Lafayette.

Whereas, Dr. Doversberger has reached unparalleled heights in her professional life and has contributed enormously to the educational enrichment of Hoosier students;

Whereas, Dr. Doversberger began her career at Ivy Tech State College - Lafayette in 1986 as the Dean of Instruction and Interim Executive Dean;

Whereas, Dr. Doversberger was appointed to the position of Chancellor in 1989;

Whereas, As Chancellor of Ivy Tech State College, Dr. Doversberger has headed many programs and spearheaded improvements that have strengthened the position of Ivy Tech as a Hoosier institution of higher learning;

Whereas, During Dr. Doversberger's tenure as Chancellor from 1991 to 2003, Ivy Tech experienced an enrollment increase of 247%;

Whereas, Dr. Doversberger's impressive list of accomplishments includes the acquisition of ownership of the Ross Building and adjoining land in 1991; the establishment of articulation agreements with Purdue University and other four-year colleges and universities; the expansion of dual-credit agreements with area high schools allowing high school students to earn college credit for high school courses; a campus consolidation that included the construction of Ivy Hall; renovation of the Ross Building, and renovation and expansion of Griffin Hall; and surpassing the goal established for the first capital campaign conducted by any Ivy Tech State College region;

Whereas, In addition to her academic responsibilities, Dr. Doversberger is a contributing member of the community;

Whereas, Dr. Doversberger is active in the Third House of the Greater Lafayette Chamber of Commerce, the Lafayette Rotary Club, the Youth Committee Girls Scouts of Sycamore Council, the Hanna Community Council, the Lafayette/West Lafayette Economic Development Corporation, the Indiana Department of Commerce Advisory Board, and the Regional Advisory Board;

Whereas, Before coming to Ivy Tech, Dr. Doversberger held teaching and administrative positions at Illinois Central College in Peoria, Illinois; and

Whereas, December 31 will mark the end of phase one of an outstanding career that has spanned 35 years and the beginning of phase two, which, as all members of the Indiana General Assembly know, will be as remarkable as the first: Therefore,

*Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:*

SECTION 1. That the Indiana General Assembly wishes to express its sincerest congratulations to Dr. Doversberger on her retirement and its gratitude for her many accomplishments and contributions to the Indiana educational system. We wish her continued success and happiness in her retirement years.

SECTION 2. That copies of this resolution be transmitted by the Secretary of the Senate to Dr. Elizabeth (Betty) J. Doversberger and her family.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Engrossed Senate Bill 76, has had the same under consideration and begs leave to report the same back to

the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

ALDERMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Engrossed Senate Bill 89, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-6-1.1-903 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 903. (a) A person is entitled to a refund of gasoline tax paid on gasoline purchased or used for the following purposes:

- (1) Operating stationary gas engines.
- (2) Operating equipment mounted on motor vehicles, whether or not operated by the engine propelling the motor vehicle.
- (3) Operating a tractor used for agricultural purposes.
- (3.1) Operating implements of ~~husbandry~~ **agriculture** (as defined in IC 9-13-2-77).
- (4) Operating motorboats or aircraft.
- (5) Cleaning or dyeing.
- (6) Other commercial use, except propelling motor vehicles operated in whole or in part on an Indiana public highway.
- (7) Operating a taxicab (as defined in section 103 of this chapter).

(b) If a refund is not issued within ninety (90) days of filing of the verified statement and all supplemental information required by IC 6-6-1.1-904.1, the department shall pay interest at the rate established by IC 6-8.1-9 computed from the date of filing of the verified statement and all supplemental information required by the department until a date determined by the administrator that does not precede by more than thirty (30) days the date on which the refund is made.

SECTION 2. IC 9-13-2-56 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 56. ~~(a) "Farm tractor"~~ means ~~except as provided in subsection (b);~~ a motor vehicle designed and used primarily as a farm implement for drawing ~~farm machinery including plows, mowing machines, harvesters, and other implements of husbandry;~~ **agriculture** used on a farm and, when using the highways, in traveling from one (1) field or farm to another or to or from places of repairs. The term includes a wagon, trailer, or other vehicle pulled by a farm tractor.

(b) "Farm tractor", for purposes of IC 9-21, means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

SECTION 3. IC 9-13-2-60 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 60. "Farm wagon" means a wagon, other than an implement of ~~husbandry;~~ **agriculture**, used primarily for transporting farm products and farm supplies in connection with a farming operation.

SECTION 4. IC 9-13-2-77 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 77. (a) "Implement of ~~husbandry~~ **agriculture**" means ~~special farm machinery; farm machinery; and other agricultural implements, pull type and self-propelled, equipment used for the:~~ transportation and

- (1) transport;
- (2) delivery; or
- (3) application;

~~of plant food materials or agricultural chemicals crop inputs, including seed, fertilizers, and crop protection products, and vehicles designed to transport farm these types of agricultural implements.~~

(b) The bureau shall determine by rule under IC 4-22-2 whether a category of implement of agriculture was designed to be operated primarily:

- (1) in a farm field or on farm premises; or
- (2) on a highway.

SECTION 5. IC 9-13-2-92 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 92. (a) "Law enforcement officer", except as provided in subsection (b), includes the following:

- (1) A state police officer.
- (2) A city, town, or county police officer.
- (3) A sheriff.
- (4) A county coroner.
- (5) A conservation officer.
- (6) **An individual assigned as a motor carrier inspector under IC 10-11-2-26(a).**

(b) "Law enforcement officer", for purposes of IC 9-30-5, IC 9-30-6, IC 9-30-7, IC 9-30-8, and IC 9-30-9, has the meaning set forth in IC 35-41-1.

SECTION 6. IC 9-13-2-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of ~~husbandry;~~ **agriculture designed to be operated primarily in a farm field or on farm premises**, or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

- (1) a vehicle except a motorized bicycle that is self-propelled; or
- (2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.

(d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

SECTION 7. IC 9-13-2-127 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 127. (a) "Police officer" means, except as provided in subsection (b), the following:

- (1) A regular member of the state police department.
- (2) A regular member of a city or town police department.
- (3) A town marshal or town marshal deputy.
- (4) A regular member of a county sheriff's department.
- (5) A conservation officer of the department of natural resources.

(6) **An individual assigned as a motor carrier inspector under IC 10-11-2-26(a).**

(b) "Police officer", for purposes of IC 9-21, means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

SECTION 8. IC 9-13-2-170.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 170.3. "Special machinery" means a portable saw mill or well drilling machinery.**

SECTION 9. IC 9-13-2-180 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 180. "Tractor" means a motor vehicle designed and used primarily for drawing or propelling trailers, semitrailers, or vehicles of any kind. The term does not include ~~the following:~~

- ~~(1) a farm tractor.~~
- ~~(2) A farm tractor used in transportation.~~
- ~~(3) A tractor that is used exclusively for drawing a passenger carrying semitrailer.~~

SECTION 10. IC 9-13-2-188 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 188. (a) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(b) "Truck", for purposes of IC 9-21-8-3, includes the following:

- (1) A motor vehicle designed and used primarily for drawing another vehicle and constructed to carry a load other than a part of the weight of the vehicle and load so drawn.
- (2) A motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of ~~husbandry;~~ **agriculture.**

SECTION 11. IC 9-13-2-196 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 196. (a) "Vehicle" means, except as otherwise provided in this section, a device in, upon, or by which a person or property is, or may be, transported or drawn upon a highway.

(b) "Vehicle", for purposes of IC 9-14 through IC 9-18, does not include the following:

- (1) A device moved by human power.
- (2) A vehicle that runs only on rails or tracks.
- (3) A vehicle propelled by electric power obtained from overhead trolley wires but not operated upon rails or tracks.
- (4) A firetruck and apparatus owned by a person or municipal division of the state and used for fire protection.
- (5) A municipally owned ambulance.
- (6) A police patrol wagon.
- (7) A vehicle not designed for or employed in general highway transportation of persons or property and occasionally operated or moved over the highway, including the following:
 - (A) Road construction or maintenance machinery.
 - (B) A movable device designed, used, or maintained to alert motorists of hazardous conditions on highways.
 - (C) Construction dust control machinery.
 - (D) Well boring apparatus.
 - (E) Ditch digging apparatus.
 - (F) An implement of husbandry, agriculture designed to be operated primarily in a farm field or on farm premises.
 - (G) An invalid chair.
 - (H) A yard tractor.
- (8) An electric personal assistive mobility device.

(c) For purposes of IC 9-20 and IC 9-21, the term does not include devices moved by human power or used exclusively upon stationary rails or tracks.

(d) For purposes of IC 9-22, the term refers to an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, or a motorized bicycle.

(e) For purposes of IC 9-30-5, IC 9-30-6, IC 9-30-8, and IC 9-30-9, the term means a device for transportation by land or air. The term does not include an electric personal assistive mobility device.

SECTION 12. IC 9-18-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This article does not apply to the following:

- (1) Farm wagons.
- (2) Farm tractors.
- ~~(3) Farm machinery.~~
- ~~(4)~~ (3) A new motor vehicle if the new motor vehicle is being operated in Indiana solely to remove it from an accident site to a storage location because:
 - (A) the new motor vehicle was being transported on a railroad car or semitrailer; and
 - (B) the railroad car or semitrailer was involved in an accident that required the unloading of the new motor vehicle to preserve or prevent further damage to it.

(4) An implement of agriculture designed to be operated primarily in a farm field or on farm premises.

SECTION 13. IC 9-18-2-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) License plates shall be displayed as follows:

- (1) For a motorcycle, trailer, semitrailer, or recreational vehicle, upon the rear of the vehicle.
- (2) For a ~~farm tractor or~~ tractor, upon the front of the vehicle.
- (3) For every other vehicle, upon the rear of the vehicle.

(b) A license plate shall be securely fastened, in a horizontal position, to the vehicle for which the plate is issued:

- (1) to prevent the license plate from swinging;
- (2) at a height of at least twelve (12) inches from the ground, measuring from the bottom of the license plate;
- (3) in a place and position that are clearly visible;
- (4) maintained free from foreign materials and in a condition to be clearly legible; and
- (5) not obstructed or obscured by tires, bumpers, accessories, or other opaque objects.

(c) The bureau may adopt rules the bureau considers advisable to enforce the proper mounting and securing of license plates on vehicles consistent with this chapter.

SECTION 14. IC 9-18-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. Except as otherwise provided, before:

- (1) a motor vehicle;
- (2) a motorcycle;
- (3) a truck;
- (4) a trailer;
- (5) a semitrailer;
- (6) a tractor;
- ~~(7) an implement of husbandry or a farm tractor used in transportation;~~
- ~~(8)~~ (7) a bus;
- ~~(9)~~ (8) a school bus;
- ~~(10)~~ (9) a recreational vehicle; or
- ~~(11)~~ (10) special farm machinery;

is operated or driven on a highway, the person who owns the vehicle must register the vehicle with the bureau and pay the applicable registration fee.

SECTION 15. IC 9-18-2-29.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29.5. **Before a piece of special machinery is operated off a highway or in a farm field, the person who owns the piece of special machinery must:**

- (1) register the piece of special machinery with the bureau; and**
- (2) pay the applicable registration fee.**

SECTION 16. IC 9-18-2-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 43. (a) Notwithstanding any law to the contrary but except as provided in subsection (b), a law enforcement officer authorized to enforce motor vehicle laws who discovers a vehicle required to be registered under this article that does not have the proper certificate of registration or license plate:

- (1) shall take the vehicle into the officer's custody; and
- (2) may cause the vehicle to be taken to and stored in a suitable place until:
 - (A) the legal owner of the vehicle can be found; or
 - (B) the proper certificate of registration and license plates have been procured.

(b) A law enforcement officer who discovers a vehicle in violation of the registration provisions of this article has discretion in the impoundment of any of the following:

- (1) Perishable commodities.
- (2) Livestock.

~~(c) A person who recklessly violates this section commits a Class A misdemeanor.~~

SECTION 17. IC 9-19-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in ~~subsections~~ subsection (b) through ~~(c)~~ and as otherwise provided in this chapter, this article does not apply to the following with respect to equipment on vehicles:

- (1) Implements of ~~husbandry~~ agriculture designed to be operated primarily in a farm field or on farm premises.
- (2) Road machinery.
- (3) Road rollers.
- (4) Farm tractors.
- (5) Vehicle chassis that:
 - (A) are a part of a vehicle manufacturer's work in process; and
 - (B) are driven under this subdivision only for a distance of less than one (1) mile.

~~(b) A farm type dry or liquid fertilizer tank trailer or spreader that is drawn or towed on a highway by:~~

- ~~(1) a farm tractor; or~~
- ~~(2) a motor vehicle at a speed not greater than thirty (30) miles per hour;~~

~~is considered an implement of husbandry with respect to equipment requirements and all the requirements of this article regarding lamps on combinations, including farm tractors, apply.~~

~~(c) (b) A farm type dry or liquid fertilizer tank trailer or spreader that is drawn or towed on a highway by a motor vehicle other than a farm tractor at a speed greater than thirty (30) miles per hour is considered a trailer for equipment requirement purposes and all equipment requirements concerning trailers apply.~~

SECTION 18. IC 9-19-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Sections 4 through

5 of this chapter and IC 9-19-4-3, IC 9-19-4-4, and IC 9-19-5-7:

(1) do not apply to:

(A) machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities;

(B) farm drainage machinery;

(C) implements of ~~husbandry~~ **agriculture** when used during farming operations or when ~~so~~ constructed so that they can be moved without material damage to the highways; or

(D) firefighting apparatus owned or operated by a political subdivision or a volunteer fire department (as defined in

~~IC 36-8-12-1~~; **IC 36-8-12-2**); and

(2) do not limit the width or height of farm vehicles when loaded with farm products."

Page 1, line 8, strike "husbandry" and insert "**agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway and**".

Page 1, line 9, after "system" insert ",".

Page 2, line 8, strike "husbandry" and insert "**agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway and**".

Page 2, line 9, after "system" insert ",".

Page 2, line 18, strike "husbandry" and insert "**agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway and**".

Page 2, line 19, after "system" insert ",".

Page 2, line 31, strike "husbandry" and insert "**agriculture**".

Page 2, line 35, strike "husbandry" and insert "**agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway and**".

Page 2, line 36, after "system" insert ",".

Page 2, line 42, strike "husbandry" and insert "**agriculture**".

Page 3, line 14, strike "husbandry" and insert "**agriculture**".

Page 3, line 26, strike "husbandry" and insert "**agriculture**".

Page 3, between lines 30 and 31, begin a new paragraph and insert: "SECTION 20. IC 9-19-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A farm tractor and a self-propelled farm equipment unit or an implement of ~~husbandry~~ **agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway and** not equipped with an electric lighting system, must, at all times required by IC 9-21-7-2, be equipped with the following:

(1) At least one (1) lamp displaying a white light visible from a distance of not less than five hundred (500) feet to the front of the vehicle.

(2) At least one (1) lamp displaying a red light visible from a distance of not less than five hundred (500) feet to the rear of the vehicle.

(3) Two (2) red reflectors visible from a distance of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

The lights required by this subsection must be positioned so that one (1) lamp showing to the front and one (1) lamp or reflector showing to the rear will indicate the furthest projection of the tractor, unit, or implement on the side of the road used in passing the vehicle.

(b) A combination of farm tractor and towed unit of farm equipment or implement of ~~husbandry~~ **agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway and** not equipped with an electric lighting system, must, at all times required by IC 9-21-7-2, be equipped with two (2) red reflectors that meet the following requirements:

(1) Are visible from a distance of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

(2) Are mounted in a manner so as to indicate as nearly as practicable the extreme left and right rear projections of the towed unit or implement on the highway.

(c) A farm tractor and a self-propelled unit of farm equipment or an implement of ~~husbandry~~ **agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway and** equipped with an electric lighting system, must, at all times required by IC 9-21-7-2, be equipped with the following:

(1) Two (2) single-beam or multiple-beam head lamps meeting

the requirements of section 20 or 21 of this chapter or IC 9-21-7-9.

(2) Two (2) red lamps visible from a distance of not less than five hundred (500) feet to the rear, or in the alternative, one (1) red lamp visible from a distance of not less than five hundred (500) feet to the rear and two (2) red reflectors visible from a distance of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

The red lamps or reflectors must be mounted in the rear of the farm tractor or self-propelled implement of ~~husbandry~~ **agriculture** so as to indicate as nearly as practicable the extreme left and right projections of the vehicle on the highways.

(d) A combination of farm tractor and towed farm equipment or towed implement of ~~husbandry~~ **agriculture designed to be operated primarily in a farm field or on farm premises, when operated on a highway and** equipped with an electric lighting system, must, at all times required by IC 9-21-7-2, be equipped as follows:

(1) The farm tractor element of each combination must be equipped with two (2) single-beam or multiple-beam head lamps meeting the requirements of section 20 or 21 of this chapter or IC 9-21-7-9.

(2) The towed unit of farm equipment or implement of ~~husbandry~~ **agriculture** element of each combination must be equipped with the following:

(A) Two (2) red lamps visible from a distance of not less than five hundred (500) feet to the rear, or as an alternative, one (1) red lamp visible from a distance of not less than five hundred (500) feet to the rear.

(B) Two (2) red reflectors visible from a distance of one hundred (100) feet to six hundred (600) feet to the rear when illuminated by the upper beams of head lamps.

The red lamps or reflectors must be located so as to indicate as nearly as practicable the extreme left and right rear projections of the towed unit or implement on the highway.

(3) A combination of farm tractor and towed farm equipment or towed implement of ~~husbandry~~ **agriculture** equipped with an electric lighting system must be equipped with the following:

(A) A lamp displaying a white or an amber light, or any shade of color between white and amber, visible from a distance of not less than five hundred (500) feet to the front.

(B) A lamp displaying a red light visible from a distance of not less than five hundred (500) feet to the rear.

The lamps must be installed or capable of being positioned so as to indicate to the front and rear the furthest projection of that combination on the side of the road used by other vehicles in passing that combination.

(e) A farm tractor, a self-propelled farm equipment unit, or an implement of ~~husbandry~~ **agriculture** must not display blinding field or flood lights when operated on a highway.

(f) All rear lighting requirements may be satisfied by having a vehicle with flashing lights immediately trail farm equipment in accordance with IC 9-21-7-11."

Page 4, between lines 21 and 22, begin a new paragraph and insert: "SECTION 23. IC 9-19-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Except as provided in subsections (b) through (d), a tire on a vehicle moved on a highway may not have on the tire's periphery a block, stud, flange, cleat, or spike or any other protuberance of any material other than rubber that projects beyond the tread of the traction surface of the tire.

(b) ~~Farm machinery~~ **Implements of agriculture** may use tires having protuberances that will not injure the highway.

(c) Tire chains of reasonable proportions may be used upon a vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid.

(d) From October 1 to the following May 1, a vehicle may use tires in which have been inserted ice grips or tire studs of wear-resisting material, installed in a manner that provides resiliency upon contact with the road, with projections that do not exceed three thirty-seconds (3/32) of an inch beyond the tread of the traction surface of the tire, and constructed to prevent any appreciable damage to the road surface.

SECTION 24. IC 9-19-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The Indiana

department of transportation and local authorities in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of:

- (1) traction engines; or
- (2) tractors having movable tracks with transverse corrugations upon the periphery of movable tracks; or
- (3) farm tractors or ~~other farm machinery~~, **implements of agriculture designed to be operated primarily in a farm field or on farm premises;**

the operation of which upon a highway would otherwise be prohibited under this chapter.

SECTION 25. IC 9-20-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) As used in this section, "farm vehicle loaded with a farm product" includes a truck hauling unprocessed leaf tobacco.

(b) Except for interstate highway travel, this article does not apply to the following:

- (1) Machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities.
- (2) ~~Farm drainage machinery.~~
- (3) ~~(2)~~ **Implements of husbandry agriculture** when used during farming operations or when ~~so~~ constructed so that the implements can be moved without material damage to the highways.

(c) This article does not apply to firefighting apparatus owned or operated by a political subdivision or volunteer fire department (as defined in IC 36-8-12-2).

(d) Except for interstate highway travel, this article does not limit the width or height of a farm vehicle loaded with a farm product.

SECTION 26. IC 9-21-8-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) Except as provided in subsection (b), a stop or turn signal required under this chapter may be given by means of the hand and arm or by a signal lamp or lamps or mechanical signal device.

(b) This subsection does not apply to farm tractors and implements **of agriculture designed to be operated primarily in a farm field or on farm premises.** A motor vehicle in use on a highway must be equipped with and a required signal shall be given by a signal lamp or lamps or mechanical signal device when either of the following conditions exist:

- (1) The distance from the center of the top of the steering post to the left outside limit of the body, cab, or load of the motor vehicle exceeds twenty-four (24) inches.
- (2) The distance from the center of the top of the steering post to the rear limit of the body or load of the motor vehicle exceeds fourteen (14) feet. This measurement applies to a single vehicle and a combination of vehicles.

SECTION 27. IC 9-21-8-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 46. A person may not drive or operate:

- (1) an implement of ~~husbandry agriculture designed to be operated primarily in a farm field or on farm premises;~~ or
- (2) a piece of special machinery;

upon any part of an interstate highway.

SECTION 28. IC 9-21-8-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 47. The following vehicles must be moved or operated so as to avoid any material damage to the highway or unreasonable interference with other highway traffic:

- (1) Machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities.
- (2) Farm drainage machinery.
- (3) Implements of ~~husbandry~~ **agriculture.**
- (4) Firefighting apparatus owned or operated by a political subdivision or a volunteer fire department (as defined in IC 36-8-12-2).
- (5) Farm vehicles loaded with farm products."

Page 4, between lines 40 and 41, begin a new paragraph and insert: "SECTION 30. IC 9-21-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 21. Farm Vehicles Involved in Commercial Enterprises

Sec. 1. A motor vehicle, trailer, or semitrailer and tractor may be operated primarily as a farm truck, farm trailer, or farm semitrailer and tractor if the vehicle meets the specifications set forth in IC 9-29-5-13(b).

Sec. 2. A farm truck described in section 1 of this chapter may be used for personal purposes if the vehicle otherwise qualifies for that class of registration.

Sec. 3. Except as provided in section 4 of this chapter, if the owner of a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter begins to operate the farm truck, farm trailer, or farm semitrailer and tractor or permits the farm truck, farm trailer, or farm semitrailer and tractor to be operated:

- (1) in the conduct of a commercial enterprise; or
- (2) for the transportation of farm products after the commodities have entered the channels of commerce during a registration year for which the license fee under IC 9-29-5-13 has been paid;

the owner shall pay the amount computed under IC 9-29-5-13.5(c) due for the remainder of the registration year for the license fee.

Sec. 4. Notwithstanding section 3 of this chapter and IC 9-18-2-4, the owner of a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter or an employee or family member of the owner may operate intrastate the truck, trailer, or semitrailer and tractor in the conduct of a commercial enterprise or for the transportation of farm products after the commodities have entered the channels of commerce for a period of not more than one (1) thirty (30) day period in a registration year established by IC 9-18-2-7. Before a vehicle may be operated as provided in this subsection, the owner shall pay to the bureau:

- (1) the license fee due under IC 9-29-5-13(b); and
- (2) eight and one-half percent (8.5%) of the license fee paid under IC 9-29-5-13(b);

for the farm truck, farm trailer, or farm semitrailer and tractor. The bureau shall adopt rules under IC 4-22-2 to authorize the operation of a farm truck, farm trailer, or farm semitrailer and tractor in the manner provided in this subsection.

Sec. 5. In addition to the penalty provided in section 7 of this chapter, a person that operates a vehicle or allows a vehicle that the person owns to be operated when the vehicle is:

- (1) registered under this chapter as a farm truck, farm trailer, or farm semitrailer and tractor; and
- (2) operated as set forth in section 3 of this chapter;

commits a Class C infraction. However, the offense is a Class B infraction if, within the three (3) years preceding the commission of the offense, the person had a prior unrelated judgment under this section.

Sec. 6. For purposes of this chapter, the operation of a vehicle in violation of section 3 of this chapter is a continuing offense and the venue for prosecution lies in a county in which the unlawful operation occurred. However, a:

- (1) judgment against; or
- (2) finding by the court for;

the owner or operator bars a prosecution in another county.

Sec. 7. (a) A police officer who discovers a vehicle registered under this chapter as a farm truck, farm trailer, or farm semitrailer and tractor that is being operated as set forth in section 3 of this chapter:

- (1) may take the vehicle into the police officer's custody; and
- (2) may cause the vehicle to be taken to and stored in a suitable place until:
 - (A) the legal owner of the vehicle can be found; or
 - (B) the proper certificate of registration and license plates have been procured and the amount computed under IC 9-29-5-13.5 has been paid.

(b) A police officer described in subsection (a) who discovers a vehicle in violation of the registration provisions of this chapter may not impound any of the following:

- (1) Perishable commodities.

(2) Livestock.

SECTION 31. IC 9-24-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. Sections 1 through 5 of this chapter do not apply to the following individuals:

(1) An individual in the service of the armed forces of the United States while operating an official motor vehicle in that service.

(2) An individual while operating: ~~an~~

- (A) a road roller;
- (B) road construction or maintenance machinery, except where the road roller or machinery is required to be registered under Indiana law;
- (C) a ditch digging apparatus;
- (D) a well drilling apparatus;
- (E) a concrete mixer; or
- (F) a farm tractor or an implement of husbandry, **agriculture designed to be operated primarily in a farm field or on farm premises;**

that is being temporarily drawn, moved, or propelled on an Indiana public highway.

(3) A nonresident who:

(A) is at least sixteen (16) years and one (1) month of age; and

(B) has in the nonresident's immediate possession a valid operator's license that was issued to the nonresident in the nonresident's home state or country;

while operating a motor vehicle in Indiana only as an operator.

(4) A nonresident who:

(A) is at least eighteen (18) years of age; and

(B) has in the nonresident's immediate possession a valid chauffeur's license that was issued to the nonresident in the nonresident's home state or country;

while operating a motor vehicle upon a public highway, either as an operator or a chauffeur.

(5) A nonresident who:

(A) is at least eighteen (18) years of age; and

(B) has in the nonresident's immediate possession a valid license issued by the nonresident's home state for the operation of any motor vehicle upon a public highway when in use as a public passenger carrying vehicle;

while operating a motor vehicle upon a public highway.

(6) A nonresident whose home state or country does not require the licensing of operators or chauffeurs and who has not been licensed as an operator or a chauffeur in the nonresident's home state or country as an operator if the nonresident is at least sixteen (16) years and thirty (30) days of age and less than eighteen (18) years of age or as a chauffeur if the nonresident is at least eighteen (18) years of age, for not more than sixty (60) days in any one (1) year if the following conditions exist:

(A) The unlicensed nonresident is the owner of the motor vehicle or the authorized driver of the vehicle.

(B) The vehicle has been registered for the current year in the state or country of which the owner is a resident.

(C) The motor vehicle at all times displays a registration plate issued in the home state or country of the owner.

(D) The nonresident owner or driver has in the owner's or driver's immediate possession a registration card evidencing ownership and registration in the owner's or driver's home state or country or is able at any required time or place to do the following:

(i) Prove lawful possession or the right to operate the motor vehicle.

(ii) Establish the nonresident's proper identity.

(7) An individual who is legally licensed to operate a motor vehicle in the state of the individual's residence and who is employed in Indiana, subject to the restrictions imposed by the state of the individual's residence.

(8) A new resident of Indiana who possesses an unexpired driver's license issued by the resident's former state of residence, for a period of sixty (60) days after becoming a resident of Indiana.

(9) An individual who is an engineer, a conductor, a brakeman, or another member of the crew of a locomotive or a train that is

being operated upon rails, including the operation of the locomotive or the train on a crossing over a street or a highway. An individual described in this subdivision is not required to display a license to a law enforcement officer in connection with the operation of a locomotive or a train in Indiana.

SECTION 32. IC 9-29-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) This section does not apply to a vehicle or person exempted from registration under IC 9-18.

(b) The license fee for a motor vehicle that has: ~~(1) a corn sheller;~~ ~~(2) a well driller;~~ ~~(3) a hay press;~~ ~~(4) a clover huller;~~ ~~(5) a farm wagon type liquid fertilizer tank trailer; or (6) farm machinery; that is permanently mounted on the motor vehicle and used solely for transporting the equipment piece of special machinery~~ is five dollars (\$5). The motor vehicle is exempt from other fees provided under IC 9-18 or this article.

~~(c) The license fee for a farm wagon used for transporting farm products and farm supplies in connection with a farming operation is five dollars (\$5). The farm wagon is exempt from other fees provided under IC 9-18 or this article.~~

~~(d) The license fee for a farm type dry or liquid fertilizer tank trailer or spreader or implement of husbandry used to transport bulk fertilizer between distribution point and farm and return is five dollars (\$5). The trailer, spreader, or implement is exempt from the other fees provided under IC 9-18 or this article.~~

~~(e) (c) The owner of a vehicle listed in this section is not entitled to a reduction in the five dollar (\$5) license fee because the license is granted at a time that the license period is less than a year.~~

SECTION 33. IC 9-29-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. A farm wagon or farm type dry or liquid fertilizer tank trailer or spreader used to transport bulk fertilizer between distribution point and farm and return is exempt from all license fees when the wagon, trailer, or spreader is drawn or towed on a highway by a:

(1) farm tractor; or

(2) properly registered motor vehicle.

~~that is registered as a farm tractor used in transportation.~~

SECTION 34. IC 9-29-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) This section does not apply to a vehicle or person exempt from registration under IC 9-18.

(b) The license fee for a motor vehicle, trailer, or semitrailer and tractor operated primarily as a farm truck, farm trailer, or farm semitrailer and tractor:

(1) having a declared gross weight of at least eleven thousand (11,000) pounds; and

(2) used by the owner or guest occupant in connection with agricultural pursuits usual and normal to the user's farming operation;

is fifty percent (50%) of the amount listed in this chapter for a truck, trailer, or semitrailer and tractor of the same declared gross weight.

~~(c) A farm truck, farm trailer, or farm semitrailer and tractor described in subsection (b) may not be operated either part time or incidentally in the conduct of a commercial enterprise or for the transportation of farm products after the commodities have entered the channels of commerce.~~

~~(d) A farm truck described in subsection (b) may be used for personal purposes if the vehicle otherwise qualifies for that class of registration.~~

SECTION 35. IC 9-29-5-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.5. (a) This section applies to a truck, trailer, or semitrailer and tractor for which a license fee provided in section 13(b) of this chapter has been paid.

(b) **Except as provided in subsection (d),** if the owner of a truck, trailer, or semitrailer and tractor described in subsection (a) begins to operate the truck, trailer, or semitrailer and tractor in the conduct of a commercial enterprise or for the transportation of farm products after the commodities have entered the channels of commerce during a registration year for which the license fee under section 13(b) of this chapter has been paid, the owner shall pay the amount listed in this chapter for a truck, trailer, or semitrailer and tractor of the same declared gross weight reduced by a credit determined under subsection (c) to license the truck, trailer, or semitrailer and tractor.

(c) The credit provided in subsection (b) equals:

- (1) the license fee paid under section 13(b) of this chapter; reduced by
- (2) ten percent (10%) for each full or partial calendar month that has elapsed in the registration year for which the license fee has been paid.

~~(d) A~~ **The credit determined under subsection (c) may not exceed ninety percent (90%) of the license fee paid under section 13(b) of this chapter.**

(d) Notwithstanding subsection (b) and IC 9-18-2-4, the owner of a truck, trailer, or semitrailer and tractor described in subsection (a) or an employee or family member of the owner may operate intrastate the truck, trailer, or semitrailer and tractor in the conduct of a commercial enterprise or for the transportation of farm products after the commodities have entered the channels of commerce for a period that consists of not more than a thirty (30) day period in a registration year as provided by IC 9-21-21-4. Before a vehicle may be operated as provided in this subsection, the owner shall pay to the bureau:

- (1) any license fee due under section 13(b) of this chapter; and**
- (2) eight and one-half percent (8.5%) of the license fee paid under section 13(b) of this chapter.**

SECTION 36. IC 9-29-5-42 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 42. (a) Except as provided in subsection (c), vehicles not subject to IC 9-18-2-8 shall be registered at one-half (1/2) of the regular rate, subject to IC 9-18-2-7, if the vehicle is registered after July 31 of any year. This subsection does not apply to the following:

~~(1) A farm tractor used in transportation.~~

~~(2) (1) Special farm machinery.~~

~~(3) (2) Semitrailers registered on a five (5) year or permanent basis under IC 9-18-10-2.~~

(3) An implement of agriculture designed to be operated primarily on a highway.

(b) Except as provided in subsection (c), subsection (a) and IC 9-18-2-7 determine the registration fee for the registration of a vehicle subject to registration under IC 9-18-2-8(c), IC 9-18-2-8(d), and IC 9-18-2-8(e) and acquired by an owner subsequent to the date required for the annual registration of vehicles by an owner set forth in IC 9-18-2-8.

(c) Subject to subsection (d), a vehicle subject to the International Registration Plan that is registered after September 30 shall be registered at a rate determined by the following formula:

STEP ONE: Determine the number of months before April 1 of the following year beginning with the date of registration. A partial month shall be rounded to one (1) month.

STEP TWO: Multiply the STEP ONE result by one-twelfth (1/12).

STEP THREE: Multiply the annual registration fee for the vehicle by the STEP TWO result.

(d) If the department of state revenue adopts rules under IC 9-18-2-7 to implement staggered registration for motor vehicles subject to the International Registration Plan, a motor vehicle subject to the International Registration Plan that is registered after the date designated for registration of the motor vehicle in rules adopted under ~~IC 9-17-2-7~~ **IC 9-18-2-7** shall be registered at a rate determined by the following formula:

STEP ONE: Determine the number of months before the motor vehicle must be re-registered. A partial month shall be rounded to one (1) month.

STEP TWO: Multiply the STEP ONE result by one-twelfth (1/12).

STEP THREE: Multiply the annual registration fee for the vehicle by the STEP TWO result.

SECTION 37. IC 10-11-2-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) The superintendent may assign qualified persons who are not state police officers to supervise or operate permanent or portable weigh stations. A person assigned under this section may stop, inspect, and issue citations to operators of trucks and trailers having a declared gross weight of at least eleven thousand (11,000) pounds and buses at a permanent or portable weigh station or while operating a clearly

marked Indiana state police vehicle for violations of the following:

- (1) IC 6-1.1-7-10.
- (2) IC 6-6-1.1-1202.
- (3) IC 6-6-2.5.
- (4) IC 6-6-4.1-12.
- (5) IC 8-2.1.
- (6) IC 9-18.
- (7) IC 9-19.
- (8) IC 9-20.
- (9) IC 9-21-7-2 through IC 9-21-7-11.
- (10) IC 9-21-8-41 pertaining to the duty to obey an official traffic control device for a weigh station.
- (11) IC 9-21-8-45 through IC 9-21-8-48.
- (12) IC 9-21-9.
- (13) IC 9-21-15.
- (14) IC 9-21-21.**
- ~~(14) (15)~~ **(15)** IC 9-24-1-1 through IC 9-24-1-3.
- ~~(15) (16)~~ **(16)** IC 9-24-1-7.
- ~~(16) (17)~~ **(17)** Except as provided in subsection (c), IC 9-24-1-6, IC 9-24-6-16, IC 9-24-6-17, and IC 9-24-6-18, commercial driver's license.
- ~~(17) (18)~~ **(18)** IC 9-24-4.
- ~~(18) (19)~~ **(19)** IC 9-24-5.
- ~~(19) (20)~~ **(20)** IC 9-24-11-4.
- ~~(20) (21)~~ **(21)** IC 9-24-13-3.
- ~~(21) (22)~~ **(22)** IC 9-24-18-1 through IC 9-24-18-2.
- ~~(22) (23)~~ **(23)** IC 9-25-4-3.
- ~~(23) (24)~~ **(24)** IC 9-28-4.
- ~~(24) (25)~~ **(25)** IC 9-28-5.
- ~~(25) (26)~~ **(26)** IC 9-28-6.
- ~~(26) (27)~~ **(27)** IC 9-29-5-11 through IC 9-29-5-13.
- ~~(27) (28)~~ **(28)** IC 9-29-5-42.
- ~~(28) (29)~~ **(29)** IC 9-29-6-1.
- ~~(29) (30)~~ **(30)** IC 13-17-5-1, IC 13-17-5-2, IC 13-17-5-3, or IC 13-17-5-4.
- ~~(30) (31)~~ **(31)** IC 13-30-2-1.

(b) For the purpose of enforcing this section, a person assigned under this section may detain a person in the same manner as a law enforcement officer under IC 34-28-5-3.

(c) A person assigned under this section may not enforce IC 9-24-6-14 or IC 9-24-6-15.

SECTION 38. IC 13-11-2-245 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 245. (a) "Vehicle", for purposes of IC 13-17-5, refers to a vehicle required to be registered with the bureau of motor vehicles and required to have brakes. The term does not include the following:

~~(1) Farm tractors.~~

~~(2) Implements of husbandry.~~

~~(3) Farm tractors used in transportation.~~

~~(4) (1) Mobile homes (house trailers).~~

~~(5) (2) Trailers weighing not more than three thousand (3,000) pounds.~~

~~(6) (3) Antique motor vehicles.~~

(4) Special machinery (as defined in IC 9-13-2-170.3).

(b) "Vehicle", for purposes of IC 13-18-12, means a device used to transport a tank.

(c) "Vehicle", for purposes of IC 13-20-4, refers to a municipal waste collection and transportation vehicle.

(d) "Vehicle", for purposes of IC 13-20-13-7, means a motor vehicle and types of equipment, machinery, implements, or other devices used in transportation, manufacturing, agriculture, construction, or mining. The term does not include the following:

(1) A lawn and garden tractor that is propelled by a motor of not more than ~~twenty (20)~~ **twenty-five (25)** horsepower.

(2) A semitrailer.

(e) "Vehicle", for purposes of IC 13-20-14, has the meaning set forth in IC 9-13-2-196.

SECTION 39. IC 26-1-9.1-311 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 311. (a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) a statute, regulation, or treaty of the United States whose

requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt IC 26-1-9.1-310(a);

(2) any Indiana certificate-of-title statute covering automobiles, trailers, mobile homes, or boats, ~~farm tractors or the like~~, which provides for a security interest to be indicated on the certificate as a condition or result of perfection; or

(3) a certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under IC 26-1-9.1. Except as otherwise provided in subsection (d), IC 26-1-9.1-313, IC 26-1-9.1-316(d), and IC 26-1-9.1-316(e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in subsection (d), IC 26-1-9.1-316(d), and IC 26-1-9.1-316(e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to IC 26-1-9.1.

(d) During any period in which collateral, subject to a statute specified in subsection (a)(2), is inventory held for sale or lease by a person or leased by that person as lessor, and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person, but instead, the filing provisions of IC 26-1-9.1-501 through IC 26-1-9.1-527 apply.

SECTION 40. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 6-6-2.5-11; IC 9-13-2-55; IC 9-13-2-57; IC 9-13-2-169; IC 9-29-5-19.

SECTION 41. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 9-13-2-77, as amended by this act, the bureau of motor vehicles shall carry out the duties imposed on it under IC 9-13-2-77, as amended by this act, under interim written guidelines approved by the commissioner of motor vehicles.**

(b) **This SECTION expires on the earlier of the following:**

(1) **The date rules are adopted under IC 9-13-2-77, as amended by this act.**

(2) **December 31, 2006.**

SECTION 42. [EFFECTIVE JULY 1, 2005] (a) **Notwithstanding IC 9-29-5-13, as amended by this act, the requirement that a motor vehicle, trailer, or semitrailer and tractor must have a declared gross weight of at least sixteen thousand (16,000) pounds in order to be categorized as a farm truck, farm trailer, or farm semitrailer and tractor does not apply to a motor vehicle, trailer, or semitrailer and tractor before January 1, 2006.**

(b) **This SECTION expires December 31, 2006.**

SECTION 43. [EFFECTIVE UPON PASSAGE] (a) **The bureau of motor vehicles shall adopt rules under IC 4-22-2 to identify and define "farm truck", "farm trailer", and "farm semitrailer and tractor", as required by IC 9-13-2-58.**

(b) **Notwithstanding subsection (a), the bureau of motor vehicles shall carry out the duties imposed on it by IC 9-13-2-58 and by this SECTION under interim written guidelines approved by the commissioner of motor vehicles.**

(c) **This SECTION expires on the earlier of the following:**

(1) **The date rules are adopted under IC 9-13-2-58.**

(2) **December 31, 2006.**

SECTION 44. [EFFECTIVE UPON PASSAGE] (a) **As used in this SECTION, "common carrier" has the meaning set forth in IC 8-2.1-17-4.**

(b) **As used in this SECTION, "contract carrier" has the meaning set forth in IC 8-2.1-17-5.**

(c) **As used in this SECTION, "person" includes an employee or a family member of a farmer.**

(d) **Notwithstanding IC 9-24-6-2(c), the bureau of motor vehicles shall adopt rules under IC 4-22-2 to exempt a person who operates a farm vehicle:**

(1) **that is controlled by a farmer;**

(2) **that is used to transport:**

(A) **agricultural products;**

(B) **farm machinery; or**

(C) **farm supplies;**

to or from a farm;

(3) **that is not used in the operations of a common or contract motor carrier; and**

(4) **that is used within one hundred fifty (150) miles of the farmer's farm;**

from regulation as a person required to hold a commercial driver's license in order to operate a farm vehicle.

(e) **The bureau of motor vehicles shall carry out the duties imposed on it by IC 9-24-6-2(c) and by this SECTION under interim written guidelines approved by the commissioner of motor vehicles.**

(f) **This SECTION expires on the earlier of the following:**

(1) **The date rules are adopted under IC 9-24-6-2(c).**

(2) **December 31, 2006."**

Page 5, after line 10, begin a new paragraph and insert:

"SECTION 46. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to SB 89 as printed February 11, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 1.

GUTWEIN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 95, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 41, delete "seventeen (17)" and insert "**nineteen (19)**".

Page 4, line 1, delete "Three (3)" and insert "**Four (4)**".

Page 4, line 4, delete "Three (3)" and insert "**Four (4)**".

(Reference is to SB 95 as printed January 28, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

ULMER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 98, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 0.

ULMER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Engrossed Senate Bill 101, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

ULMER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred Engrossed Senate Bill 149, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new

paragraph and insert:

"SECTION 1. IC 5-10.2-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The annuity savings account consists of:

- (1) the members' contributions; and
- (2) the interest credits on these contributions in the guaranteed fund or the gain or loss in market value on these contributions in the alternative investment program, as specified in section 4 of this chapter.

Each member shall be credited individually with the amount of the member's contributions and interest credits.

(b) Each board shall maintain the annuity savings account program in effect on December 31, 1995 (referred to in this chapter as the guaranteed program). In addition, the board of the Indiana state teachers' retirement fund shall establish and maintain a guaranteed program within the 1996 account. Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary of the annuity savings account, subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.

(c) Each board shall establish alternative investment programs within the annuity savings account of the public employees' retirement fund, the pre-1996 account, and the 1996 account, based on the following requirements:

- (1) Each board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1) alternative investment program that is a bond fund.
- (2) The programs should represent a variety of investment objectives under IC 5-10.3-5-3.
- (3) No program may permit a member to withdraw money from the member's account except as provided in IC 5-10.2-3 and IC 5-10.2-4.
- (4) All administrative costs of each alternative program shall be paid from the earnings on that program **or as may be determined by the rules of each board.**
- (5) A valuation of each member's account must be completed as of:

(A) the last day of each quarter; or

(B) **another time as each board may specify by rule.**

(d) The board must prepare, at least annually, an analysis of the guaranteed program and each alternative investment program. This analysis must:

- (1) include a description of the procedure for selecting an alternative investment program;
- (2) be understandable by the majority of members; and
- (3) include a description of prior investment performance.

(e) A member may direct the allocation of the amount credited to the member among the guaranteed fund and any available alternative investment funds, subject to the following conditions:

- (1) A member may make a selection or change an existing selection under rules established by each board. A board shall allow a member to make a selection or change any existing selection at least once each quarter.
- (2) The board shall implement the member's selection beginning the first day of the next calendar quarter that begins at least thirty (30) days after the selection is received by the board **or an alternate date established by the rules of each board.** This date is the effective date of the member's selection.
- (3) A member may select any combination of the guaranteed fund or any available alternative investment funds, in ten percent (10%) increments **or smaller increments that may be established by the rules of each board.**
- (4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:

- (A) for an alternative investment program balance, the market value on the effective date; and
- (B) for any guaranteed program balance, the account balance on the effective date.

All contributions to the member's account shall be allocated as of the last day of that quarter **or at an alternate time established by the rules of each board** in accordance with the member's most recent effective direction. The board shall not reallocate the member's account at any other time.

(f) When a member who participates in an alternative investment program transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program or to the guaranteed program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection **or at an alternate time established by the rules of each board.** When a member who participates in an alternative investment program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus contributions received after that date **or at an alternate time established by the rules of each board.**

(g) When a member who participates in the guaranteed program transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the effective date of the transfer. **However, each board may by rule provide for an alternate valuation date.** When a member who participates in the guaranteed program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus any contributions received since that date plus interest since that date. **However, each board may by rule provide for an alternate valuation date.**

SECTION 2. IC 5-10.2-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Unless a member elects otherwise under this section, the retirement benefit for each member consists of the sum of a pension provided by employer contributions plus an annuity provided by the amount credited to the member in the annuity savings account.

(b) A member may choose at retirement or upon a disability retirement to receive a distribution of:

- (1) the entire amount credited to the member in the annuity savings account; or
- (2) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (1), the member is not entitled to an annuity as part of the retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2).

(c) Instead of choosing to receive the benefits described in subsection (a) or (b), a member may choose upon retirement or upon disability retirement to begin receiving a pension provided by employer contributions and to defer receiving in any form the member's annuity savings account. If a member chooses this option, the member:

- (1) is not entitled to an annuity as part of the member's retirement or disability benefit, and the member's annuity savings account will continue to be invested according to the member's direction under IC 5-10.2-2-3; and
- (2) may later choose, as of the first day of a month, **or an alternate date established by the rules of each board,** to receive a distribution of:
 - (A) the entire amount credited to the member in the annuity savings account; or
 - (B) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it

existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (2)(A), the member is not entitled to an annuity as part of the member's retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2)(B), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2)(B). If the member does not choose to receive a distribution under this subsection, the member is entitled to an annuity purchasable by the entire amount in the member's annuity savings account, and the form of the annuity shall be as described in subsection (d) unless the member elects an option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3, except that it shall be determined as of the last day of the quarter preceding the member's actual distribution or annuitization date. **However, each board may by rule provide for an alternate valuation date.**

(d) Retirement benefits must be distributed in a manner that complies with Section 401(a)(9) of the Internal Revenue Code, as specified in IC 5-10.2-2-1.5."

Page 1, line 10, after "be" insert ":".

Page 1, line 11, reset in roman "(A) a member of a collective bargaining unit of state".

Page 1, line 11, after "member of" insert ":

- (i) the fund; or
- (ii)".

Page 1, line 12, reset in roman "employees represented by a labor organization; or".

Page 1, line 13, reset in roman "(B)".

Page 1, line 13, after "(B) an" insert "**individual who is:**

- (i) an".

Page 1, line 13, after "officer" insert "**or a member**".

Page 1, line 14, strike "employees." and insert "**or university employees; and**

- (ii) an Indiana resident."

Page 1, line 16, after "board." insert "**An individual appointed under this subsection to serve as the director's designee:**

- (1) is subject to the provisions of section 3 of this chapter; and
- (2) serves as a permanent designee until replaced by the director."

Page 2, line 7, delete "both of the".

Page 2, delete line 8.

Page 2, line 9, delete "(1)".

Page 2, line 9, delete "Compensation" and insert "**compensation**".

Page 2, line 9, strike "of four hundred fifty dollars (\$450) on October".

Page 2, line 10, strike "1, January 1, April 1, and June 30".

Page 2, line 12, delete "(2) Reimbursement" and insert "**reimbursement**".

Page 2, run in lines 7 through 12.

Page 2, line 41, after "board." insert "**An individual appointed under this subsection to serve as the director's designee serves as a permanent designee until replaced by the director.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 149 as reprinted January 25, 2005.) and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

TORR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy and Veterans Affairs, to which was referred Engrossed Senate Bill 193, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 0.

ALDERMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 206, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 25-22.5-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) A paramedic (as defined in IC 16-18-2-266), an emergency medical technician-basic advanced (as defined in IC 16-18-2-112.5), an emergency medical technician-intermediate (as defined in IC 16-18-2-112.7), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):

(A) during a disaster emergency declared by the governor under IC 10-14-3-12 in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person's family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(10) A dental hygienist practicing the dental hygienist's profession under IC 25-13.

(11) A dentist practicing the dentist's profession under IC 25-14.

(12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(13) A nurse practicing the nurse's profession under IC 25-23. However, a registered nurse may administer anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.

(14) An optometrist practicing the optometrist's profession under IC 25-24.

(15) A pharmacist practicing the pharmacist's profession under IC 25-26.

(16) A physical therapist practicing the physical therapist's profession under IC 25-27.

(17) A podiatrist practicing the podiatrist's profession under IC 25-29.

(18) A psychologist practicing the psychologist's profession under IC 25-33.

(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.

(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

- (A) a physician;
- (B) a psychiatric hospital;
- (C) a hospital;
- (D) a health maintenance organization or limited service health maintenance organization;
- (E) a health facility;
- (F) a dentist;
- (G) a registered or licensed practical nurse;
- (H) a midwife;
- (I) an optometrist;
- (J) a podiatrist;
- (K) a chiropractor;
- (L) a physical therapist; or
- (M) a psychologist.

(23) A physician assistant practicing the physician assistant's profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-2.1.

(25) An attendant who provides care services (as defined in ~~IC 16-27-1-0.5~~; **IC 16-18-2-28.5**).

(26) A personal services attendant providing authorized attendant care services under IC 12-10-17.

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

- (1) the person performs an act that an Indiana statute does not authorize the person to perform; and
- (2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection

commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized to dispense contraceptives or birth control devices.

SECTION 2. IC 25-23-1-27.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27.1. (a) As used in this section, "licensed health professional" means:

- (1) a registered nurse;
- (2) a licensed practical nurse;
- (3) a physician with an unlimited license to practice medicine or osteopathic medicine;
- (4) a licensed dentist;
- (5) a licensed chiropractor;
- (6) a licensed optometrist;
- (7) a licensed pharmacist;
- (8) a licensed physical therapist;
- (9) a licensed psychologist;
- (10) a licensed podiatrist; or
- (11) a licensed speech-language pathologist or audiologist.

(b) This chapter does not prohibit:

- (1) furnishing nursing assistance in an emergency;
- (2) the practice of nursing by any student enrolled in a board approved nursing education program where such practice is incidental to the student's program of study;
- (3) the practice of any nurse who is employed by the government of the United States or any of its bureaus, divisions, or agencies while in the discharge of the nurse's official duties;
- (4) the gratuitous care of sick, injured, or infirm individuals by friends or the family of that individual;
- (5) the care of the sick, injured, or infirm in the home for compensation if the person assists only:
 - (A) with personal care;
 - (B) in the administration of a domestic or family remedy; or
 - (C) in the administration of a remedy that is ordered by a licensed health professional and that is within the scope of practice of the licensed health professional under Indiana law;
- (6) performance of tasks by persons who provide health care services which are delegated or ordered by licensed health professionals, if the delegated or ordered tasks do not exceed the scope of practice of the licensed health professionals under Indiana law;
- (7) a physician with an unlimited license to practice medicine or osteopathic medicine in Indiana, a licensed dentist, chiropractor, dental hygienist, optometrist, pharmacist, physical therapist, podiatrist, psychologist, speech-language pathologist, or audiologist from practicing the person's profession;
- (8) a school corporation or school employee from acting under IC 34-30-14;
- (9) a personal services attendant from providing authorized attendant care services under IC 12-10-17; or
- (10) an attendant who provides attendant care services (as defined by ~~IC 16-27-1-0.5~~; **in 16-18-2-28.5**).

SECTION 3. IC 12-9-5-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. **Notwithstanding any other law:**

- (1) **home health agencies licensed under IC 16-27-1 are approved to provide home health services; and**
- (2) **personal services agencies licensed under IC 16-27-4 are approved to provide personal services;**

under any federal waiver granted to the state under 42 U.S.C. 1315 or 42 U.S.C. 1396n.

SECTION 4. IC 16-18-2-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.5. (a) "Attendant care services", for purposes of IC 16-27-1 ~~has the meaning set forth in IC 16-27-1-0.5~~; **and IC 16-27-4, means services:**

- (1) **that could be performed by an impaired individual for whom the services are provided if the individual were not impaired; and**
- (2) **that enable the impaired individual:**
 - (A) **to live in the individual's home and community rather than in an institution; and**
 - (B) **to carry out functions of daily living, self-care, and mobility.**

(b) The term includes the following:

- (1) Assistance in getting in and out of beds, wheelchairs, and motor vehicles.
- (2) Assistance with routine bodily functions, including:
 - (A) bathing and personal hygiene;
 - (B) using the toilet;
 - (C) dressing and grooming; and
 - (D) feeding, including preparation and cleanup.
- (3) The provision of assistance:
 - (A) through providing reminders or cues to take medication, the opening of preset medication containers, and providing assistance in the handling or ingesting of noncontrolled substance medications, including eye drops, herbs, supplements, and over-the-counter medications; and
 - (B) to an individual who is unable to accomplish the task due to an impairment and who is:
 - (i) competent and has directed the services; or
 - (ii) incompetent and has the services directed by a competent individual who may consent to health care for the impaired individual.

SECTION 5. IC 16-18-2-56.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 56.5. "Client", for purposes of IC 16-27-4, has the meaning set forth in IC 16-27-4-1.

SECTION 6. IC 16-18-2-162 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 162. (a) "Health care professional", for purposes of IC 16-27-1 and IC 16-27-4, has the meaning set forth in IC 16-27-1-1.

(b) "Health care professional", for purposes of IC 16-27-2, has the meaning set forth in IC 16-27-2-1.

SECTION 7. IC 16-18-2-266.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 266.5. "Parent personal services agency", for purposes of IC 16-27-4, has the meaning set forth in IC 16-27-4-2.

SECTION 8. IC 16-18-2-277.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 277.6. "Personal representative", for purposes of IC 16-27-4, has the meaning set forth in IC 16-27-4-3.

SECTION 9. IC 16-18-2-277.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 277.7. "Personal services", for purposes of IC 16-27-2 and IC 16-27-4, has the meaning set forth in IC 16-27-4-4.

SECTION 10. IC 16-18-2-277.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 277.8. "Personal services agency", for purposes of IC 16-27-4, has the meaning set forth in IC 16-27-4-5.

SECTION 11. IC 16-27-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) As used in this chapter, "home health services" means services that: ~~are:~~

- (1) are provided to a patient by:
 - (A) a home health agency; or
 - (B) another person under an arrangement with a home health agency;
 in the temporary or permanent residence of the patient; and
 - (2) either, are required by law to be:
 - (A) ordered by a licensed physician, a licensed dentist, a licensed chiropractor, a licensed podiatrist, or a licensed optometrist for the service to be performed; or
 - (B) performed only by a health care professional.
- (b) The term includes the following:
- (1) Nursing treatment and procedures.
 - (2) Physical therapy.
 - (3) Occupational therapy.
 - (4) Speech therapy.
 - (5) Medical social services.
 - (6) Home health aide services.
 - (7) Other therapeutic services.
- (c) The term does not apply to the following:

- (1) Services provided by a physician licensed under IC 25-22.5.
- (2) Incidental services provided by a licensed health facility to patients of the licensed health facility.
- (3) Services provided by employers or membership organizations using health care professionals for their employees, members, and families of the employees or members if the health or home care services are not the predominant purpose of the employer or a membership organization's business.
- (4) Nonmedical nursing care given in accordance with the tenets and practice of a recognized church or religious denomination to a patient who depends upon healing by prayer and spiritual means alone in accordance with the tenets and practices of the patient's church or religious denomination.
- (5) Services that are allowed to be performed by an attendant under IC 16-27-1-10.
- (6) Authorized services provided by a personal services attendant under IC 12-10-17.

SECTION 12. IC 16-27-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The state department shall adopt rules under IC 4-22-2 to do the following:

- (1) Protect the health, safety, and welfare of patients.
- (2) Govern the qualifications of applicants for licenses.
- (3) Govern the operating policies, supervision, and maintenance of service records of home health agencies.
- (4) Govern the procedure for issuing, renewing, denying, or revoking an annual license to a home health agency, including the following:
 - (A) The form and content of the license.
 - (B) The collection of an annual license fee of not more than two hundred ~~fifty~~ dollars (~~\$200~~) (**\$250**) that the state department may waive.
- (5) Exempt persons who do not provide home health services under this chapter.

SECTION 13. IC 16-27-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.2. As used in this chapter, "services" includes:

- (1) home health services (as defined in IC 16-27-1-5); ~~and~~
- (2) any services such as homemaker, companion, sitter, or handyman services provided by a home health agency in the temporary or permanent residence of a patient or client of the home health agency; **and**
- (3) **personal services.**

SECTION 14. IC 16-27-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) A person may not operate a home health agency **or a personal services agency** if the person has been convicted of any of the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Exploitation of an endangered adult (IC 35-46-1-12).
- (4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).
- (5) Theft (IC 35-43-4), if the person's conviction for theft occurred less than ten (10) years before the date of submission by the person of an application for licensure as a home health agency under IC 16-27-1 **or as a personal services agency under IC 16-27-4.**

(b) A person who knowingly or intentionally violates this section commits a Class A misdemeanor.

SECTION 15. IC 16-27-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) A person who operates a home health agency **under IC 16-27-1 or a personal services agency under IC 16-27-4** shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for a copy of the employee's limited criminal history from the Indiana central repository for criminal history information under IC 10-13-3.

(b) A home health agency **or personal services agency** may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than three (3) business days without applying for that person's limited criminal history as required by subsection (a).

SECTION 16. IC 16-27-2-5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Except as provided in subsection (b), a person who operates a home health agency **under IC 16-27-1 or a personal services agency under IC 16-27-4** may not employ a person to provide services in a patient's or client's temporary or permanent residence if that person's limited criminal history indicates that the person has been convicted of any of the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Exploitation of an endangered adult (IC 35-46-1-12).
- (4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).
- (5) Theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the person's employment application date.

(b) A home health agency **or personal services agency** may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21) calendar days without receipt of that person's limited criminal history required by section 4 of this chapter, unless the Indiana central repository for criminal history information under IC 10-13-3 is solely responsible for failing to provide the person's limited criminal history to the home health agency **or personal services agency** within the time required under this subsection.

SECTION 17. IC 16-27-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A person who operates a home health agency **or a personal services agency under IC 16-27-4** is responsible for the payment of fees under IC 10-13-3-30 and other fees required under section 4 of this chapter.

(b) A home health agency **or personal services agency** may require a person who applies to the home health agency **or personal services agency** for employment to provide services in a patient's or client's temporary or permanent residence:

- (1) to pay the cost of fees described in subsection (a) to the home health agency **or personal services agency** at the time the person submits an application for employment; or
- (2) to reimburse the home health agency **or personal services agency** for the cost of fees described in subsection (a).

SECTION 18. IC 16-27-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. A person who:

- (1) operates a home health agency **or personal services agency**; and
- (2) violates section 4 or 5 of this chapter;

commits a Class A infraction.

SECTION 19. IC 16-27-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 4. Licensure of Personal Services Agencies

Sec. 1. As used in this chapter, "client" means an individual who has been accepted to receive personal services from a personal services agency.

Sec. 2. As used in this chapter, "parent personal services agency" means the personal services agency that develops and maintains administrative and fiscal control over a branch office.

Sec. 3. As used in this chapter, "personal representative" means a person who has legal authority to act on behalf of the client with regard to the action to be taken.

Sec. 4. (a) As used in this chapter, "personal services" means:

- (1) attendant care services;
- (2) homemaker services that assist with or perform household tasks, including housekeeping, shopping, laundry, meal planning and preparation, and cleaning; and
- (3) companion services that provide fellowship, care, and protection for a client, including transportation, letter writing, mail reading, and escort services;

that are provided to a client at the client's residence.

(b) The term does not apply to the following:

- (1) Incidental services provided by a licensed health facility to patients of the licensed health facility.
- (2) Services provided by employers or membership organizations for their employees, members, and families of the employees or members if the services are not the predominant purpose of the employer or the membership

organization's business.

(3) Services that are allowed to be performed by a personal services attendant under IC 12-10-17.

(4) Services that require the order of a health care professional for the services to be lawfully performed in Indiana.

(5) Assisted living Medicaid waiver services.

(6) Services that are performed by a facility described in IC 12-10-15.

Sec. 5. (a) As used in this chapter, "personal services agency" means a person that provides or offers to provide a personal service for compensation, whether through the agency's own employees or by arrangement with another person.

(b) The term does not include the following:

(1) An individual who provides personal services only to the individual's family and to not more than three (3) individuals per residence and not more than a total of seven (7) individuals concurrently. As used in this subdivision, "family" means the individual's spouse, child, parent, parent-in-law, grandparent, grandchild, brother, brother-in-law, sister, sister-in-law, aunt, aunt-in-law, uncle, uncle-in-law, niece, and nephew.

(2) A local health department as described in IC 16-20 or IC 16-22-8.

(3) A person that:

(A) is approved by the division of disability, aging, and rehabilitative services to provide supported living services or supported living support to individuals with developmental disabilities;

(B) is subject to rules adopted under IC 12-11-2.1; and

(C) serves only individuals with developmental disabilities who are in a placement authorized under IC 12-11-2.1-4.

Sec. 6. (a) To operate a personal services agency, a person must obtain a license from the state health commissioner. A personal services agency may not be opened, operated, managed, maintained, or conduct business without a license from the state department. Each parent personal services agency must obtain a separate license.

(b) A parent personal services agency may maintain branch offices that operate under the license of the parent personal services agency. Each branch office must be:

(1) at a location or site from which the personal services agency provides services;

(2) owned and controlled by the parent personal services agency; and

(3) located within a radius of one hundred twenty (120) miles of the parent personal services agency.

(c) A license is required for any personal services agency providing services in Indiana. An out-of-state personal services agency must be authorized by the secretary of state to conduct business in Indiana and have a branch office in Indiana.

(d) Application for a license to operate a personal services agency must be made on a form provided by the state department and must be accompanied by the payment of a fee of two hundred fifty dollars (\$250). The application may not require any information except as required under this chapter.

(e) After receiving a completed application that demonstrates prima facie compliance with the requirements of this chapter and the payment of the fee required by subsection (d), the state department shall issue a license to the applicant to operate a personal services agency. The state department may conduct an onsite inspection in conjunction with the issuance of an initial license or the renewal of a license.

(f) In the state department's consideration of:

(1) an application for licensure;

(2) an application for renewal of licensure;

(3) a complaint alleging noncompliance with the requirements of this chapter; or

(4) an investigation conducted under section 7(a) of this chapter;

the state department's onsite inspections in conjunction with those actions are limited to determining the personal service agency's compliance with the requirements of this chapter or

permitting or aiding an illegal act in a personal services agency.

(g) Subject to subsection (e), when conducting an onsite inspection, the state department must receive all documents necessary to determine the personal service agency's compliance with the requirements of this chapter. A personal services agency must produce documents requested by the state department surveyor not less than twenty-four (24) hours after the documents have been requested.

(h) A license expires one (1) year after the date of issuance of the license under subsection (e). However, the state department may issue an initial license for a period of less than one (1) year to stagger the expiration dates. The licensee shall notify the state department in writing at least thirty (30) days before closing or selling the personal services agency.

(i) A personal services agency license may not be transferred or assigned. Upon sale, assignment, lease, or other transfer, including transfers that qualify as a change in ownership, the new owner or person in interest must obtain a license from the state department under this chapter before maintaining, operating, or conducting the personal services agency.

(j) A home health agency licensed under IC 16-27-1 that operates a personal services agency within the home health agency is subject to the requirements of this chapter. The requirements under IC 16-27-1 do not apply to a home health agency's personal services agency. The requirements under this chapter do not apply to a home health agency's operations. A home health agency that is licensed under IC 16-27-1 is not required to obtain a license under this chapter.

(k) If a person who is licensed to operate a personal services agency is also licensed to operate a home health agency under IC 16-27-1, an onsite inspection for renewal of the person's personal services agency license must, to the extent feasible, be conducted at the same time as an onsite inspection of the home health agency license.

Sec. 7. (a) The state department shall investigate a report of an unlicensed personal services agency operation and report its findings to the attorney general.

(b) The attorney general may do the following:

(1) Seek an injunction in the circuit or superior court of the county in which the unlicensed home health agency is located.

(2) Prosecute violations under section 23 of this chapter.

Sec. 8. (a) If a personal services agency is aware that the client's medical or health condition has become unstable or unpredictable, the personal services agency shall notify the client, the client's personal representative, a family member, other relative of the client, or other person identified by the client of the need for a referral for medical or health services. The notification may be given in writing or orally and must be documented in the client's record with the personal services agency.

(b) The personal services agency may continue to provide personal services for a client with an unstable or unpredictable medical or health condition but may not manage or represent itself as able to manage the client's medical or health condition.

Sec. 9. (a) A personal services agency shall employ an individual to act as the personal services agency's manager. The manager is responsible for the organization and daily operation of the personal services agency.

(b) The manager may designate in writing one (1) or more individuals to act on behalf of or to perform any or all of the responsibilities of the personal services agency's manager under this chapter.

Sec. 10. The personal services agency's manager or the manager's designee shall prepare a service plan for a client before providing personal services for the client. A permanent change to the service plan requires a written change to the service plan. The service plan must:

(1) be in writing, dated, and signed by the individual who prepared it;

(2) list the types and schedule of services to be provided; and

(3) state that the services to be provided to the client are subject to the client's right to temporarily suspend, permanently terminate, temporarily add, or permanently

add the provision of any service.

All permanent changes require a change in the written service plan. The service plan must be signed and dated by the client not later than fourteen (14) days after services begin for the client and not later than fourteen (14) days after any permanent change to the service plan.

Sec. 11. The personal services agency's manager or the manager's designee shall conduct a client satisfaction review with the client every seventy-six (76) to one hundred four (104) days to discuss the services being provided and to determine if any change in the plan of services should occur. The review with the client may be in person or by telephone. This client satisfaction review must:

(1) be put in writing; and

(2) be signed and dated by the individual conducting the review.

Sec. 12. The personal services agency shall provide the client or the client's personal representative with the personal services agency's written statement of client rights not more than seven (7) days after providing services to the client. The statement of client rights must include the following information:

(1) The client has the right to have the client's property treated with respect.

(2) The client has the right to temporarily suspend, permanently terminate, temporarily add, or permanently add services in the service plan.

(3) The client has the right to file grievances regarding services furnished or regarding the lack of respect for property by the personal services agency and is not subject to discrimination or reprisal for filing a grievance.

(4) The client has the right to be free from verbal, physical, and psychological abuse and to be treated with dignity.

(5) A statement that it is not within the scope of the personal services agency's license to manage the medical and health conditions of the client if a condition becomes unstable or unpredictable.

(6) The charges for services provided by the personal services agency.

(7) The personal services agency's policy for notifying the client of any increase in the cost of services.

(8) The hours the personal services agency's office is open for business.

(9) That on request the personal services agency will make available to the client a written list of the names and addresses of all persons having at least a five percent (5%) ownership or controlling interest in the personal services agency.

(10) The procedures for contacting the personal services agency's manager, or the manager's designee, while the personal services agency's office is open or closed.

(11) The procedure and telephone number to call to file a complaint with the personal services agency.

(12) That the state department does not inspect personal service agencies as the part of the licensing process but does investigate complaints concerning personal service agencies.

(13) The procedure and telephone number to call to file a complaint with the state department along with the business hours of the state department.

Sec. 13. A personal services agency shall investigate a complaint made by a client, the client's family, or the client's personal representative regarding:

(1) service that is or fails to be furnished; and

(2) the lack of respect for the client's property by anyone furnishing services on behalf of the personal services agency.

The personal services agency shall document the complaint and the resolution of the complaint.

Sec. 14. The personal services agency's manager or the manager's designee shall be available to respond to client telephone calls twenty-four (24) hours a day.

Sec. 15. An employee or agent of a personal services agency who will have direct client contact must complete a tuberculosis test in the same manner as required by the state department for licensed home health agency employees and agents.

Sec. 16. (a) The competency of an employee or agent of a personal services agency who will perform attendant care services at the client's residence must be evaluated by the agency or the agency's designee for each attendant care services task that the personal services agency chooses to have that employee or agent perform. The agency has the sole discretion to determine if an employee or agent is competent to perform an attendant care services task.

(b) After an evaluation, an employee or agent shall be trained in the attendant care services tasks the personal services agency believes require improvement. The employee or agent shall be reevaluated following any training. The evaluation of the employee or agent and determination by the agency that the employee or agent is competent to perform the attendant care services task must occur before the employee or agent performs that task for a client without direct agency supervision.

(c) The content of the evaluation and training conducted under this section, including the date and the signature of the person conducting the evaluation and training, must be documented for each employee or agent who performs personal services.

Sec. 17. (a) Disclosure of ownership and management information must be made to the state department:

- (1) at the time of the personal services agency's request for licensure;
- (2) during each survey of the personal services agency; and
- (3) when there is a change in the management or in an ownership interest of more than five percent (5%) of the personal services agency.

(b) The disclosure under subsection (a) must include the following:

- (1) The name and address of all persons having at least five percent (5%) ownership or controlling interest in the personal services agency.
- (2) The name and address of each person who is an officer, a director, a managing agent, or a managing employee of the personal services agency.
- (3) The name and address of the person responsible for the management of the personal services agency.
- (4) The name and address of the chief executive officer and the chairperson (or holder of the equivalent position) of the governing body that is responsible for the person identified under subdivision (3).

(c) The determination of an ownership interest and the percentage of an ownership interest under this chapter must be determined under 45 CFR 420.201 and 45 CFR 420.202, as in effect on July 1, 2005.

Sec. 18. A personal services agency shall document evidence of compliance with the requirements of this chapter and document services provided to clients. The documentation or copies of the documentation must be maintained or be electronically accessible at a personal services agency's office in Indiana for not less than seven (7) years.

Sec. 19. (a) The state health commissioner may take one (1) or more of the following actions on any ground listed in subsection (b):

- (1) Issue a probationary license.
- (2) Conduct a resurvey.
- (3) Deny renewal of a license.
- (4) Revoke a license.
- (5) Impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000).

(b) The state health commissioner may take action under subsection (a) on any of the following grounds:

- (1) Violation of a provision of this chapter or a rule adopted under this chapter.
- (2) Permitting, aiding, or abetting the commission of an illegal act in a personal services agency.

(c) IC 4-21.5 applies to an action under this section.

Sec. 20. (a) The state department shall adopt rules under IC 4-22-2 to govern the procedure for the following:

- (1) Issuing, renewing, denying, or revoking a personal services agency license.
- (2) Investigating a complaint against a personal services agency that alleges a violation of this chapter.

(3) Collecting fees required under this chapter.

(b) The state department may not add to the substantive or procedural requirements in this chapter.

Sec. 21. A licensee or an applicant for a license aggrieved by an action under this chapter may request a review under IC 4-21.5.

Sec. 22. (a) In response to a request for review of an order referred to in subsection (c), the executive board shall appoint an appeals panel that consists of three (3) members as follows:

- (1) One (1) member of the executive board.
- (2) One (1) attorney admitted to the practice of law in Indiana.
- (3) One (1) individual with qualifications determined by the executive board.

(b) An employee of the state department may not be a member of the panel.

(c) The panel shall conduct proceedings for review of an order issued by an administrative law judge under this chapter. The panel is the ultimate authority under IC 4-21.5.

Sec. 23. A person who knowingly or intentionally:

- (1) operates a personal services agency; or
- (2) advertises the operation of a personal services agency; that is not licensed under this chapter commits a Class A misdemeanor.

SECTION 20. IC 22-1-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 5. Home Care Consumers and Worker Protection

Sec. 1. As used in this chapter, "attendant care services" has the meaning set forth in IC 16-18-2-28.5.

Sec. 2. As used in this chapter, "companion type services" has the meaning set forth in IC 12-10-17-2(2).

Sec. 3. As used in this chapter, "consumer" means an individual who:

- (1) receives home care services given by a home care services worker in the individual's residence; or
- (2) pays for and directs the home care services for another individual.

Sec. 4. As used in this chapter, "consumer notice" means the notice described in section 14 of this chapter.

Sec. 5. As used in this chapter, "department" refers to the department of labor created under IC 22-1-1-1.

Sec. 6. As used in this chapter, "home care services" means skilled and unskilled services provided to an individual at the individual's residence to enable the individual to remain in the residence safely and comfortably. The provision of at least two (2) of the following is included in home care services:

- (1) Nursing.
- (2) Therapy.
- (3) Attendant care.
- (4) Companion type services.
- (5) Homemaker services.

Sec. 7. As used in this chapter, "home care services worker" means an individual performing home care services for compensation.

Sec. 8. As used in this chapter, "homemaker services" means assistance with or performing household tasks that include housekeeping, shopping, laundry, meal planning and preparation, handyman services, and seasonal chores.

Sec. 9. As used in this chapter, "placement agency" means a person engaged in the business of securing home care services employment for an individual or securing a home care services worker for a consumer. The term:

- (1) includes an employment agency, a nurse registry, and an entity that places a home care services worker for compensation by a consumer in the consumer's residence to provide home care services; and
- (2) does not include a worker who solely and personally provides home care services to another individual at the residence of that individual.

Sec. 10. As used in this chapter, "skilled services" means services provided by a:

- (1) registered nurse (as defined in IC 25-23-1-1.1(a));
- (2) licensed practical nurse (as defined in IC 25-23-1-1.2); or
- (3) health care professional listed in IC 16-27-1-1.

Sec. 11. As used in this chapter, "worker notice" means the statement described in section 17 of this chapter.

Sec. 12. This chapter applies to a placement agency, but does not apply to a:

- (1) hospital (as defined in IC 16-18-2-179);
- (2) health facility (as defined in IC 16-18-2-167(a)); or
- (3) home health agency (as defined in IC 16-18-2-173).

Sec. 13. A placement agency:

- (1) must provide a consumer with a consumer notice each time a home care services worker is placed in the home of the consumer; and
- (2) is not required to provide a consumer notice when a new or different home care services worker is substituting for the regular home care services worker placed with the consumer.

Sec. 14. A consumer notice must include the following:

- (1) The duties, responsibilities, and obligations of the placement agency to the:
 - (A) home care services worker; and
 - (B) consumer.
- (2) A statement identifying the placement agency as:
 - (A) an employer;
 - (B) a joint employer;
 - (C) a leasing employer; or
 - (D) not an employer.
- (3) A statement that notwithstanding the employment status of the placement agency, the consumer:
 - (A) may be considered an employer under state and federal employment laws; and
 - (B) may be responsible for:
 - (i) payment of local, state, or federal employment taxes;
 - (ii) payment for Social Security and Medicare contributions;
 - (iii) ensuring payment of at least the minimum wage;
 - (iv) overtime payment;
 - (v) unemployment contributions under IC 22-4-11; or
 - (vi) worker's compensation insurance as required by IC 22-3-2-5 and IC 22-3-7-34;
- (4) The appropriate telephone number, address, and electronic mail address of the department for inquiries regarding the contents of the notice.

The department shall determine the content and format of the consumer notice.

Sec. 15. The failure of a placement agency to provide a consumer notice to the consumer at the time a home care services worker is placed in the consumer's home does not relieve a consumer from the duties or obligations as an employer. If a placement agency fails to provide a consumer notice and the consumer is liable for payment of wages, taxes, worker's compensation insurance premiums, or unemployment compensation employer contributions, the consumer has a right of indemnification against the placement agency, which includes the actual amounts paid to or on behalf of the home care services worker as well as the consumer's attorney's fees and costs.

Sec. 16. A placement agency that will not be the actual employer of the home care services worker shall provide a worker notice as set forth in section 17 of this chapter to a home care services worker who is placed with a consumer. The worker notice must:

- (1) be provided to the home care services worker upon placement in the consumer's home; and
- (2) specify the home care services worker's legal relationship with the placement agency and the consumer.

Sec. 17. The worker notice referred to in section 16 of this chapter must contain the following:

- (1) The duties, responsibilities, and obligations of the placement agency, the consumer, and the home care services worker if the home care services worker is determined to be an independent contractor, including:
 - (A) a statement of the party responsible for the payment of the home care services worker's wages, taxes, Social Security and Medicare contributions, unemployment

contributions, and worker's compensation insurance premiums; and

(B) a statement identifying the party responsible for the home care services worker's hiring, firing, discipline, day to day supervision, assignment of duties, and provision of equipment or materials for use by the home care services worker.

- (2) The telephone number, address, and electronic mail address of the department for inquiries regarding the contents of the notice.

The department shall determine the content and format of the consumer notice.

Sec. 18. The department may at any time and upon receiving a complaint from an interested person investigate an alleged violation of this chapter by a placement agency.

Sec. 19. The department may impose a civil penalty not to exceed one thousand dollars (\$1,000) against a placement agency that fails to provide a worker notice or a consumer notice at the times required under section 13 or 16 of this chapter. The civil penalty may be assessed by the department and, if necessary, shall be recovered by the prosecuting attorney of the county in which the violation has occurred or by the attorney general, as provided in IC 22-1-1-18."

Page 3, line 42, delete "continuing" and insert "annual training".

Page 4, line 1, delete "education".

Page 7, line 6, after "violation" insert "of this section".

Page 7, between lines 10 and 11, begin a new paragraph and insert: "SECTION 21. IC 16-27-1-0.5 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 22. [EFFECTIVE JULY 1, 2005] (a) The definitions in IC 16-27-4, as added by this act, apply to this SECTION.

(b) Notwithstanding IC 16-27-4, as added by this act, a person is not required to be licensed by the state department of health to operate a personal services agency before January 1, 2006.

(c) This SECTION expires January 1, 2006."

Page 7, line 17, delete "business".

Renumber all SECTIONS consecutively.

(Reference is to SB 206 as reprinted February 16, 2005.) and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

BECKER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Engrossed Senate Bill 209, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

HINKLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Engrossed Senate Bill 218, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 7, nays 5.

RIPLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred Engrossed Senate Bill 231, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 4.

BEHNING, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Engrossed Senate Bill 265, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 0.

HINKLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Engrossed Senate Bill 266, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 6, delete "subsection (c)," and insert "**subsections (c) and (d),**".

Page 2, after line 8, begin a new paragraph and insert:

"(d) Notwithstanding section 6 of this chapter, deer meat and products from farm raised deer that meet the requirements under IC 15-2.1 may be sold to the public."

(Reference is to SB 266 as printed February 8, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 2.

GUTWEIN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Engrossed Senate Bill 267, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 1.

GUTWEIN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Small Business, to which was referred Engrossed Senate Bill 282, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 7.1-3-20-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency. A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

- (1) was formerly used as part of a union railway station;
- (2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and
- (3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a

location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

- (1) on land; or
- (2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

- (1) was formerly used as part of a passenger and freight railway station; and
- (2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center for the visual and performing arts to a town that:

- (1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and
- (2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) After June 30, 2005, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets the following requirements:

- (1) The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.**
- (2) A county courthouse is located within the district.**
- (3) A historic opera house listed on the National Register of Historic Places is located within the district.**
- (4) A historic jail and sheriff's house listed on the National Register of Historic Places is located within the district.**

The legislative body of the municipality in which the district is located must adopt an ordinance requesting the commission to issue the permit. An applicant may not be the holder of a permit to sell alcoholic beverages that is subject to IC 7.1-3-22 and is for premises located within the district described in this section or within five hundred (500) feet of the district. A permit issued under this subsection shall not be transferred to another location. Nothing in this subsection affects or restricts an alcoholic beverage permit issued before July 1, 2005."

Renumber all SECTIONS consecutively.

(Reference is to SB 282 as printed January 28, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 1.

BORROR, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred Engrossed Senate Bill 285, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 10, nays 0.

BEHNING, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Engrossed Senate Bill 306, has had the same under consideration and begs leave to report the same back to the House

with the recommendation that said bill be amended as follows:

Page 3, line 3, delete "1501" and insert "**5401**".

(Reference is to SB 306 as printed January 28, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

HINKLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred Engrossed Senate Bill 332, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 9, nays 3.

BEHNING, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred Engrossed Senate Bill 335, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, line 23, delete "IC 5-29-5-1." and insert "**IC 5-29-4-1.**".

Page 15, line 13, strike "director" and insert "**president**".

Page 15, line 13, delete "office of".

Page 15, line 14, delete "economic development within the".

Page 15, line 15, delete "director's" and insert "**president's**".

Page 16, line 11, strike "director" and insert "**president**".

Page 16, line 11, delete "office of".

Page 16, line 12, delete "economic development within the".

Page 16, line 13, strike "director's" and insert "**president's**".

Page 17, line 2, delete "director" and insert "**president**".

Page 17, line 2, delete "office of economic development within".

Page 17, line 3, before "Indiana" delete "the".

Page 17, line 4, delete "director's" and insert "**president's**".

Page 17, line 24, delete "director" and insert "**president**".

Page 17, line 24, delete "office of economic development within".

Page 17, line 25, before "Indiana" delete "the".

Page 17, line 26, delete "director's" and insert "**president's**".

(Reference is to SB 335 as reprinted February 23, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 12, nays 0.

BUCK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred Engrossed Senate Bill 420, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-13-14.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. One (1) time every ~~six (6)~~ **three (3)** months, the division shall submit a report to the budget committee and to the ~~general assembly~~ **legislative council** that provides data and statistical information regarding caseloads for each county for child protection caseworkers, child welfare caseworkers and other caseworkers under the jurisdiction of the division of family and children, department of family and social services during the preceding ~~six (6)~~ **three (3)** months. A report submitted under this section to the ~~general assembly~~ **legislative council** must be in an electronic format under IC 5-14-6.

SECTION 2. IC 12-13-14.5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.5. (a) This section applies after June 30, 2008.

(b) A child protection caseworker or a child welfare

caseworker may not be assigned work that exceeds the following maximum caseload levels at any time:

(1) For caseworkers assigned only initial assessments, including investigations of an allegation of child abuse or neglect, twelve (12) active cases per month per caseworker.

(2) For caseworkers assigned only ongoing cases, seventeen (17) active families per caseworker.

(3) For caseworkers assigned a combination of initial assessments and ongoing cases under subdivisions (1) and (2), four (4) assessments and ten (10) active ongoing cases per caseworker.

(c) The local child protection service shall comply with the maximum caseload ratios described in subsection (b)."

Page 1, line 8, strike "IC 5-2-5-15" and insert "**IC 10-13-3-39**".

Page 4, line 23, delete "However, for a child who is less than eight (8)".

Page 4, delete lines 24 through 27, begin a new paragraph and insert:

"SECTION 7. IC 31-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The local child protection service:

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child protective services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article I, Section 11 of the Constitution of the State of Indiana.

(b) This section expires June 30, 2008.

SECTION 8. IC 31-33-2-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. (a) This section applies after June 30, 2008.

(b) The local child protection service:

(1) must have sufficient qualified and trained staff to:

(A) fulfill the purpose of this article; and

(B) comply with the maximum caseload ratios for:

(i) child protection caseworkers; and

(ii) child welfare caseworkers;

set forth in IC 12-13-14.5-3.5;

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child protective services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article 1, Section 11 of the Constitution of the State of Indiana.

SECTION 9. [EFFECTIVE JULY 1, 2005] (a) The division of family and children shall submit a report to the legislative council and the health finance commission established by IC 2-5-23-3 that contains statistics concerning the education levels and salaries of

all:

- (1) child protection caseworkers and child welfare caseworkers; and
- (2) child protection caseworker and child welfare caseworker supervisors;

not later than September 1, 2005.

(b) The report required by subsection (a) must be in an electronic format under IC 5-14-6.

(c) This SECTION expires December 31, 2005."

Renumber all SECTIONS consecutively.

(Reference is to SB 420 as reprinted February 8, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 9, nays 0.

BUDAK, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Engrossed Senate Bill 442, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 23 and 24, begin a new paragraph and insert: "SECTION 6. IC 14-37-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) **Except as provided in subsection (b), if a well for oil and gas purposes is proposed to be drilled:**

- (1) on land underlaid by an inactive underground mine; or
- (2) on land within the permit boundaries of an active underground mine permitted under IC 14-34;

an owner or operator shall, if the well is to be completed as a producing well **and regardless of whether the well is drilled through a pillar**, run an intermediate string of casing from the surface to a point at least fifty (50) feet below the base of the commercially minable coal resource or the mine floor.

(b) **Upon written application to the director by a person that proposes to drill a well described in subsection (a), the director may grant a variance from the requirements of subsection (a) if:**

- (1) **with respect to a proposed well on land described in subsection (a)(1), written consent to the variance is given by:**

- (A) the permittee under IC 14-34; or
- (B) the person that has the right to develop the coal resource; or

- (2) **with respect to a proposed well on land described in subsection (a)(2), written consent to the variance is given by the coal mine operator under IC 14-34.**

(c) **If a variance is granted under subsection (b), the well must be completed:**

- (1) **in the manner required under section 4 or 5 of this chapter; and**

- (2) **in a manner that prevents the following:**

- (A) Waste.
- (B) Fresh water pollution.
- (C) Blowouts.
- (D) Cavings.
- (E) Seepages.
- (F) Fires.
- (G) **Unreasonably detrimental effects upon fish, wildlife, and botanical resources."**

Renumber all SECTIONS consecutively.

(Reference is to SB 442 as printed February 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

HOFFMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Engrossed Senate Bill 446, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 8, delete "29(d)" and insert "29(e)".

Page 4, between lines 21 and 22, begin a new paragraph and insert: "SECTION 4. IC 13-26-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A district may do the following:

- (1) Sue or be sued.
- (2) Make contracts in the exercise of the rights, powers, and duties conferred upon the district.
- (3) Adopt and alter a seal and use the seal by causing the seal to be impressed, affixed, reproduced, or otherwise used. However, the failure to affix a seal does not affect the validity of an instrument.
- (4) Adopt, amend, and repeal the following:
 - (A) Bylaws for the administration of the district's affairs.
 - (B) Rules and regulations for the following:
 - (i) The control of the administration and operation of the district's service and facilities.
 - (ii) The exercise of all of the district's rights of ownership.
- (5) Construct, acquire, lease, operate, or manage works and obtain rights, easements, licenses, money, contracts, accounts, liens, books, records, maps, or other property, whether real, personal, or mixed, of a person or an eligible entity.
- (6) Assume in whole or in part any liability or obligation of:
 - (A) a person;
 - (B) a nonprofit water, sewage, or solid waste project system; or
 - (C) an eligible entity;

including a pledge of part or all of the net revenues of a works to the debt service on outstanding bonds of an entity in whole or in part in the district and including a right on the part of the district to indemnify and protect a contracting party from loss or liability by reason of the failure of the district to perform an agreement assumed by the district or to act or discharge an obligation.

(7) Fix, alter, charge, and collect reasonable rates and other charges in the area served by the district's facilities to every person whose premises are, whether directly or indirectly, supplied with water or provided with sewage or solid waste services by the facilities for the purpose of providing for the following:

- (A) The payment of the expenses of the district.
- (B) The construction, acquisition, improvement, extension, repair, maintenance, and operation of the district's facilities and properties.
- (C) The payment of principal or interest on the district's obligations.

(D) To fulfill the terms of agreements made with:

- (i) the purchasers or holders of any obligations; or
- (ii) a person or an eligible entity.

(8) Except as provided in section 2.5 of this chapter, require connection to the district's sewer system of property producing sewage or similar waste and require the discontinuance of use of privies, cesspools, septic tanks, and similar structures if:

- (A) there is an available sanitary sewer within three hundred (300) feet of the property line; and
- (B) the district has given written notice by certified mail to the property owner at the address of the property at least ninety (90) days before a date for connection to be stated in the notice.

However, a district may not require a property owner to connect to the district's sewer system if the property owner is already connected to a sewer system that was approved by a state governmental entity.

(9) Provide by ordinance for reasonable penalties for failure to connect and also apply to the circuit or superior court of the county in which the property is located for an order to force connection, with the cost of the action, including reasonable attorney's fees of the district, to be assessed by the court against the property owner in the action.

(10) Refuse the services of the district's facilities if the rates or other charges are not paid by the user.

(11) Control and supervise all property, works, easements, licenses, money, contracts, accounts, liens, books, records,

maps, or other property rights and interests conveyed, delivered, transferred, or assigned to the district.

(12) Construct, acquire by purchase or otherwise, operate, lease, preserve, and maintain works considered necessary to accomplish the purposes of the district's establishment within or outside the district and enter into contracts for the operation of works owned, leased, or held by another entity, whether public or private.

(13) Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease as lessee or lessor, use, and sell interests in real and personal property or franchises within or outside the district for:

(A) the location or protection of works;

(B) the relocation of buildings, structures, and improvements situated on land required by the district or for any other necessary purpose; or

(C) obtaining or storing material to be used in constructing and maintaining the works.

(14) Upon consent of two-thirds (2/3) of the members of the board, merge or combine with another district into a single district on terms so that the surviving district:

(A) is possessed of all rights, franchises, and authority of the constituent districts; and

(B) is subject to all the liabilities, obligations, and duties of each of the constituent districts, with all rights of creditors of the constituent districts being preserved unimpaired.

(15) Provide by agreement with another eligible entity for the joint construction of works the district is authorized to construct if the construction is for the district's own benefit and that of the other entity. For this purpose the cooperating entities may jointly appropriate land either within or outside their respective borders if all subsequent proceedings, actions, powers, liabilities, rights, and duties are those set forth by statute.

(16) Enter into contracts with a person, an eligible entity, the state, or the United States to provide services to the contracting party for any of the following:

(A) The distribution or purification of water.

(B) The collection or treatment of sanitary sewage.

(C) The collection, disposal, or recovery of solid waste.

(17) Make provision for, contract for, or sell the district's byproducts or waste.

(18) Exercise the power of eminent domain.

(19) Remove or change the location of a fence, building, railroad, canal, or other structure or improvement located within or outside the district. If:

(A) it is not feasible or economical to move the building, structure, or improvement situated in or upon land acquired; and

(B) the cost is determined by the board to be less than that of purchase or condemnation;

the district may acquire land and construct, acquire, or install buildings, structures, or improvements similar in purpose to be exchanged for the buildings, structures, or improvements under contracts entered into between the owner and the district.

(20) Employ consulting engineers, superintendents, managers, and other engineering, construction, and accounting experts, attorneys, bond counsel, employees, and agents that are necessary for the accomplishment of the district's purpose and fix their compensation.

(21) Procure insurance against loss to the district by reason of damages to the district's properties, works, or improvements resulting from fire, theft, accident, or other casualty or because of the liability of the district for damages to persons or property occurring in the operations of the district's works and improvements or the conduct of the district's activities.

(22) Exercise the powers of the district without obtaining the consent of other eligible entities. However, the district shall:

(A) restore or repair all public or private property damaged in carrying out the powers of the district and place the property in the property's original condition as nearly as practicable; or

(B) pay adequate compensation for the property.

(23) Dispose of, by public or private sale or lease, real or

personal property determined by the board to be no longer necessary or needed for the operation or purposes of the district.

SECTION 5. IC 13-26-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsection (b), the rates or charges for a sewage works may be determined based on the following:

(1) A flat charge for each connection.

(2) The amount of water used on the premises.

(3) The number and size of water outlets on the premises.

(4) The amount, strength, or character of sewage discharged into the sewers.

(5) The size of sewer connections.

(6) Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.

(7) A combination of these or other factors that the board determines is necessary to establish nondiscriminatory, just, and equitable rates or charges.

(b) ~~This subsection applies only to a district in which a campground brought a legal action after January 1, 2000, and before April 1, 2003, against a board concerning sewage service billed at a flat rate. If a campground is billed for sewage service at a flat rate under subsection (a), the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the sewers. for one (1) year. The highest meter reading for a calendar week for the campground during the year shall be used to determine the resident equivalent units for the campground. If a campground elects to be billed by use of a meter:~~

(1) the rate charged by a board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and

(2) the amount charged by a board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:

(A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or

(B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1 and ending August 31.

(c) ~~If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under subsection (a), for a calendar year beginning after December 31, 2004, each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.~~

(d) The board may impose additional charges on a campground under ~~this subsection~~ **subsections (b) and (c)** if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground; and

(2) ~~excessive concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.~~

SECTION 6. IC 13-26-11-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 2.1. (a) As used in this section, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) This section applies to an owner or operator of a campground described in section 2(b) or 2(c) of this chapter who disputes:

(1) that the campground is being billed at rates charged to residential customers for equivalent usage as required by section 2(b)(1) of this chapter;

(2) the number of resident equivalent units determined for the campground under section 2(c) of this chapter; or

(3) that any additional charges imposed on the campground under section 2(d) of this chapter are reasonable or nondiscriminatory.

(c) If an owner or operator:

(1) makes a good faith attempt to resolve a disputed matter described in subsection (b)(1) through (b)(3) through:

(A) any grievance or complaint procedure prescribed by the board; or

(B) other negotiations with the board; and

(2) is dissatisfied with the board's proposed disposition of the matter;

the owner or operator may file with the commission a written request for review of the disputed matter and the board's proposed disposition of the matter to be conducted by the commission's appeals division established under IC 8-1-2-34.5(b). The owner or operator must file a request under this section with the commission and the board not later than seven (7) days after receiving notice of the board's proposed disposition of the matter.

(d) The commission's appeals division shall provide an informal review of the disputed matter. The review must include a prompt and thorough investigation of the dispute. Upon request by either party, or on the division's own motion, the division shall require the parties to attend a conference on the matter at a date, time, and place determined by the division.

(e) In any case in which the basic monthly charge for a campground's sewage service is in dispute, the owner or operator shall pay, on any disputed bill issued while a review under this section is pending, the basic monthly charge billed during the year immediately preceding the year in which the first disputed bill is issued. If the basic monthly charge paid while the review is pending exceeds any monthly charge determined by the commission in a decision issued under subsection (f), the board shall refund or credit the excess amount paid to the owner or operator. If the basic monthly charge paid while the review is pending is less than any monthly charge determined by the appeals division or commission in a decision issued under subsection (f), the owner or operator shall pay the board the difference owed.

(f) After conducting the review required under subsection (d), the appeals division shall issue a written decision resolving the disputed matter. The division shall send a copy of the decision to:

(1) the owner or operator of the campground; and

(2) the board;

by United States mail. Not later than seven (7) days after receiving the written decision of the appeals division, either party may make a written request for the dispute to be formally docketed as a proceeding before the commission. Subject to the right of either party to an appeal under IC 8-1-3, the decision of the commission is final.

(g) The commission shall maintain a record of all requests for a review made under this section. The record must include:

(1) a copy of the appeals division's and commission's decision under subsection (f) for each dispute filed; and

(2) any other documents filed with the appeals division or commission under this section.

The record must be made available for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3.

(h) The right of a campground owner or operator to request a review under this section is in addition to the right of the campground owner or operator to file a petition under section 15 of this chapter as a freeholder of the district.

(i) The commission may adopt rules under IC 4-22-2 to implement this section."

Page 4, between lines 34 and 35, begin a new paragraph and insert:
"SECTION 8. IC 36-1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, officers of the municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity of at least ten (10) days but not more than sixty (60) days to bring the property into

compliance. If the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. **The lien attaches when notice of the lien is recorded in the office of the county recorder in which the property is located.** The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

(1) two thousand five hundred dollars (\$2,500) for real property that:

(A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or

(B) is unimproved; or

(2) ten thousand dollars (\$10,000) for all other real property not described in subdivision (1).

(b) The municipal corporation may issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) If the owner of the real property fails to pay a bill issued under subsection (b), the municipal corporation may, after thirty (30) days, certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

(c) A bill issued under subsection (b) is delinquent if the owner of the real property fails to pay the bill within thirty (30) days after the date of the issuance of the bill.

(d) Whenever a municipal corporation determines it necessary, the officer charged with the collection of fees and penalties for the municipal corporation shall prepare:

(1) a list of delinquent fees and penalties that are enforceable under this section, including:

(A) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;

(B) a description of the premises, as shown on the records of the county auditor; and

(C) the amount of the delinquent fees and the penalty; or

(2) an instrument for each lot or parcel of real property on which the fees are delinquent.

(e) The officer shall record a copy of each list or each instrument with the county recorder, who shall charge a fee for recording the list or instrument under the fee schedule established in IC 36-2-7-10.

(f) The amount of a lien shall be placed on the tax duplicate by the auditor. The total amount, including any accrued interest, shall be collected in the same manner as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

(g) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before conveyance to the subsequent owner. If the property is conveyed before the lien is recorded, the municipal corporation shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not less than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be considered a bad debt loss.

(h) The municipal corporation shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a written demand from the purchaser or a representative of the title insurance company or the title insurance company's agent that issued a title insurance policy to the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner and that the purchaser has not been paid by the seller for the delinquent fees.

(i) **The county auditor shall remove the fees, penalties, and service charges that were not recorded before a recorded conveyance to a subsequent owner upon receipt of a copy of the written demand under subsection (h).**

SECTION 9. IC 36-2-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) This section does not apply to:

- (1) an instrument executed before November 4, 1943;
- (2) a judgment, order, or writ of a court;
- (3) a will or death certificate; or
- (4) an instrument executed or acknowledged outside Indiana.

(b) Whenever this section prescribes that the name of a person be printed, typewritten, or stamped immediately beneath **his the person's** signature, the signature must be written on the instrument, directly preceding the printed, typewritten, or stamped name, and may not be superimposed on that name so as to render either illegible. However, the instrument may be received for record if the name and signature are, in the discretion of the county recorder, placed on the instrument so as to render the connection between the two apparent.

(c) The recorder may receive for record an instrument only if:

- (1) the name of each person who executed the instrument is legibly printed, typewritten, or stamped immediately beneath **his the person's** signature or the signature itself is printed, typewritten, or stamped;
- (2) the name of each witness to the instrument is legibly printed, typewritten, or stamped immediately beneath **his the witness's** signature or the signature itself is printed, typewritten, or stamped;
- (3) the name of each notary public whose signature appears on the instrument is legibly printed, typewritten, or stamped immediately beneath **his the notary's** signature or the signature itself is printed, typewritten, or stamped; and
- (4) the name of each person who executed the instrument appears identically in the body of the instrument, in the acknowledgment or jurat, in **his the person's** signature, and beneath **his the person's** signature;

or if subsection (d) is complied with.

(d) The recorder may receive for record an instrument that does not comply with subsection (c) if:

- (1) a printed or typewritten affidavit of a person with personal knowledge of the facts is recorded with the instrument;
- (2) the affidavit complies with this section;
- (3) the affidavit states the correct name of a person, if any, whose signature cannot be identified or whose name is not printed, typewritten, or stamped on the instrument as prescribed by this section; and
- (4) when the instrument does not comply with subsection (c)(4), the affidavit states the correct name of the person and states that each of the names used in the instrument refers to the person.

(e) The recorder **may shall** record a document presented for recording or a copy produced by a photographic process of the document presented for recording if:

- (1) the document complies with other statutory recording requirements; and
- (2) the document or copy will produce a clear and unobstructed copy.

All copies accepted for recording shall be marked as copies by the recorder.

(f) An instrument, document, or copy received and recorded by a county recorder is conclusively presumed to comply with this section. **The copy has the same effect as if the original document had been recorded.**

SECTION 10. IC 36-3-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) Liens for taxes levied by the consolidated city are perfected when ~~certified to the auditor of the county~~ **evidenced on the tax duplicate in the office of the treasurer of the county.**

(b) Liens created when the city enters upon property to make improvements to bring it into compliance with a city ordinance, and liens created upon failure to pay charges assessed by the city for services shall be certified to the auditor, after the adoption of a resolution confirming the incurred expense by the appropriate city department, board, or other agency. In addition, the resolution must

state the name of the owner as it appears on the township assessor's record and a description of the property. ~~These liens are perfected when certified to the auditor.~~

(c) The amount of a ~~perfected~~ lien shall be placed on the tax duplicate by the auditor in the nature of a delinquent tax subject to enforcement and collection as otherwise provided under IC 6-1.1-22, IC 6-1.1-24, and IC 6-1.1-25. However, the amount of the lien is not considered a tax within the meaning of IC 6-1.1-21-2(b) and shall not be included as a part of either a total county tax levy under IC 6-1.1-21-2(g) or the tax liability of a taxpayer under IC 6-1.1-21-5 for purposes of the tax credit computations under IC 6-1.1-21-4 and IC 6-1.1-21-5."

Page 5, after line 29, begin a new paragraph and insert:

"SECTION 11. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

(Reference is to SB 446 as reprinted February 16, 2004.) and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

HINKLE, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Engrossed Senate Bill 453, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 8, nays 3.

RIPLEY, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 460, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning education finance.

Page 1, line 1, delete "IC 20-5-4-1.8" and insert "IC 21-2-21-1.8".

Page 1, delete lines 9 through 10, begin a new paragraph and insert:

"(b) **This section applies to each school corporation that:**

(1) **did not issue bonds under IC 20-5-4-1.7 before its repeal;**

or

(2) **issued bonds under IC 20-5-4-1.7 before April 14, 2003.**".

Page 2, delete lines 7 through 22, begin a new line block indented and insert:

"(4) **The amount of the bonds that may be issued for the purpose described in this section may not exceed:**

(A) **two percent (2%) of the true tax value of property in the school corporation, for a school corporation that did not issue bonds under IC 20-5-4-1.7 before its repeal; or**

(B) **the remainder of:**

(i) **two percent (2%) of the true tax value of property in the school corporation as of the date that the school corporation issued bonds under IC 20-5-4-1.7; minus**

(ii) **the amount of bonds that the school corporation issued under IC 20-5-4-1.7;**

for a school corporation that issued bonds under

IC 20-5-4-1.7 before April 14, 2003.".

Page 2, line 23, delete "(6)" and insert "(5)".

Page 2, line 31, delete "(7)" and insert "(6)".

Page 2, delete lines 37 through 42, begin a new paragraph and insert:

"(e) **Bonds issued under this section are not subject to the petition and remonstrance process under IC 6-1.1-20 or to the limitations contained in IC 36-1-15.**

SECTION 2. **An emergency is declared for this act.**".

Delete page 3.

Renumber all SECTIONS consecutively.

(Reference is to SB 460 as printed February 25, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 21, nays 1.

AYRES, Vice Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Engrossed Senate Bill 465, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

GUTWEIN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Engrossed Senate Bill 467, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-18-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A ~~renewal~~ **reservation** of a personalized license plate must be completed by October 31 of the year before issuance of the personalized license plate ~~or other indicia of renewal of registration as set forth in IC 9-18-2-8; according to the plate cycle set under IC 9-18-2-47.~~

Page 1, line 2, strike "(a) If a person who".

Page 1, line 3, strike "has been issued a personalized license plate".

Page 1, line 6, reset in roman "If a person".

Page 1, line 6, strike "does not".

Page 1, line 6, delete "file a new application for" and insert **"who has been issued"**.

Page 1, line 7, strike "by October 31 of the year".

Page 1, line 8, delete "a" and insert **"reserves the same configuration of letters or numbers, or both, for the next"**.

Page 1, line 8, after "cycle" insert **"as"**.

Page 1, line 9, delete "IC 9-18-2-47 ends,".

Page 1, line 9, strike "the combination" and insert **"section 5 of this chapter, that configuration"**.

Page 1, line 9, delete "or".

Page 1, line 10, delete "numbers, or both,".

Page 1, line 10, strike "that was issued becomes" and insert **"or numbers, or both, is not"**.

Page 1, line 10, strike "upon the".

Page 1, line 11, strike "application of a person qualifying under this chapter." and insert **"to another person until the following plate cycle."**

Page 1, delete lines 12 through 17.

Page 2, delete lines 1 through 12.

Page 2, line 19, strike "does not become" and insert **"becomes"**.

Page 2, line 19, strike "until the following".

Page 2, line 20, delete "plate cycle as set forth in IC 9-18-2-47." and insert **"in the next registration year to any person."**

Page 2, delete lines 21 through 42.

Page 3, delete lines 1 through 3, begin a new paragraph and insert: "SECTION 4. IC 9-18-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) In addition to the applicable excise tax imposed under IC 6-6-5, the regular registration fees, and any additional fee required to receive a special recognition license plate described in section 1(b) of this chapter, a person applying for or renewing the registration of a personalized license plate shall pay ~~a the~~ **the** personalized license plate fee ~~and contribution under IC 9-29-5-32.5~~ upon an original application or registration renewal, as provided in ~~section 5 of~~ **section 5** of this chapter.

(b) Each license branch shall collect the personalized license plate fee ~~and contribution~~ at the time of application or registration renewal for the personalized license plate.

(c) Upon the payment of the required fee ~~contribution~~, and service charges for an original application or renewal of a personalized license plate, the bureau shall issue a receipt designating and

acknowledging a state fee ~~a political contribution~~, and the service charge under IC 9-29.

(d) The payment of regular registration fees and excise tax, if applicable, may be deferred until the time that the personalized license plate is delivered to the person who applied for the plate.

(e) A license branch shall collect the service charge prescribed under IC 9-29 for each initial or renewal application for a personalized license plate as a reservation and special processing fee.

SECTION 5. IC 9-18-15-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) Revenue derived from the fees and contributions **collected before July 1, 2005**, under section 10 of this chapter, except the part of the fee retained under section 10(e) of this chapter, shall be deposited with the treasurer of state in a special fund. The money from this fund remaining after the deduction provided for in subsection (d) shall be distributed monthly by the auditor of state in the following manner:

(1) To any political party that cast at least five percent (5%) but less than thirty-three percent (33%) of the total vote of the state of all political parties at the last general election for the office of governor, as certified to the secretary of state under IC 3-12-5-6, the auditor of state shall distribute an amount from the special fund equal to the fractional amount of the vote cast in the last general election for the office of governor. Distribution of money from this fund shall be made to the treasurer of the state central committee of the political party.

(2) The balance of the special fund remaining after distributions provided by subdivision (1) shall be distributed monthly by the auditor of state in equal amounts to the treasurers of the state central committees of the two (2) political parties that cast the highest and next highest number of votes statewide for governor in the last election.

(b) The bureau shall provide to:

(1) the treasurers of the respective state central committees; and
(2) the auditor of state by the twentieth day of each month for the purpose of making the distributions under subsection (a);

a report defining the number of personalized license plates sold in each county, including the total dollar amount due the treasurers, during the monthly period prescribed in subsection (a). In addition, the bureau shall provide to the treasurers information necessary to comply with IC 3-9.

(c) Within thirty (30) days of receipt of money distributed under subsection (a), the treasurers of the respective state committees shall distribute to the treasurers of each county central committee of their respective parties an amount equal to one-half (½) of the distributions provided for in subsection (a)(2) that were collected during the quarterly period in that county.

(d) The bureau shall deduct seven dollars (\$7) for each original application and renewal application for a personalized plate and deposit the money in the motor vehicle highway account.

(d) This section expires October 31, 2005.

SECTION 6. IC 9-18-15-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.5. **The bureau shall:**

(1) deduct thirty-seven dollars (\$37) of the fee collected for an initial or a renewal application for a personalized license plate; and

(2) deposit:

(A) seven dollars (\$7) of the fee described in subdivision (1) in the motor vehicle highway account established under IC 8-14-1; and

(B) thirty dollars (\$30) of the fee described in subdivision (1) as a service charge into the state license branch fund established by IC 9-29-14-1.

SECTION 7. IC 9-29-5-32.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 32.5. **The fee for a personalized license plate under IC 9-18-15 is as follows:**

(1) The applicable excise tax imposed under IC 6-6-5.

(2) The regular vehicle registration fee imposed under this chapter.

(3) A state fee of seven dollars (\$7) for the motor vehicle highway account established under IC 8-14-1.

(4) A service charge of thirty dollars (\$30) for the state

license branch fund established by IC 9-29-14-1.

SECTION 8. IC 9-29-5-32 IS REPEALED [EFFECTIVE JULY 1, 2005].

Page 3, line 18, delete "Notwithstanding IC 9-18-15-6(c), as added by this act, a" and insert "A".

Page 3, line 35, delete "IC 9-18-15-6(b)," and insert "IC 9-18-15-10,".

Page 3, line 35, delete "added" and insert "amended".

Renumber all SECTIONS consecutively.

(Reference is to SB 467 as printed February 18, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

DUNCAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Engrossed Senate Bill 518, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

Committee Vote: yeas 11, nays 0.

HOFFMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred Engrossed Senate Bill 554, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 19 and 20, begin a new paragraph and insert:
"SECTION 10. IC 14-22-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) This section does not apply to the following:

~~(1) A person who is:~~

~~(A) a resident of Indiana; and~~

~~(B) at least sixty-five (65) years of age.~~

~~(2) (1) A person who is less than seventeen (17) years of age.~~

~~(3) (2) A person who is legally blind.~~

~~(4) (3) A person who is a resident patient of a state mental institution.~~

~~(5) (4) A person who is:~~

~~(A) a resident of a health facility (as defined in IC 16-18-2-167) licensed in Indiana; and~~

~~(B) taking part in a supervised activity of the health facility.~~

~~(6) (5) A person who:~~

~~(A) is a resident of Indiana; and~~

~~(B) has a developmental disability (as defined by IC 12-7-2-61).~~

~~(7) (6) A person whose only participation in fishing is to assist an individual described in subdivision (2), (3), (4), or (5). or~~

~~(6):~~

~~(8) (7) A resident of Indiana who fishes during a free sport fishing day designated under IC 14-22-18.~~

(b) Every person must have a fishing license in the person's possession when fishing in:

(1) waters containing state owned fish;

(2) waters of the state; or

(3) boundary waters of the state.

(c) Every person must have a valid trout-salmon stamp in the person's possession to legally fish for or take trout or salmon in:

(1) waters containing state owned fish;

(2) waters of the state; or

(3) boundary waters of the state.

SECTION 11. IC 14-22-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The department may issue the following licenses and, except as provided in section 1.5 of this chapter and subject to subsection (b), shall charge the following minimum license fees to hunt, trap, or fish in Indiana:

(1) A resident yearly license to fish, eight dollars and seventy-five cents (\$8.75).

(2) A resident yearly license to hunt, eight dollars and

seventy-five cents (\$8.75).

(3) A resident yearly license to hunt and fish, thirteen dollars and seventy-five cents (\$13.75).

(4) A resident yearly license to trap, eight dollars and seventy-five cents (\$8.75).

(5) A nonresident yearly license to fish, twenty-four dollars and seventy-five cents (\$24.75).

(6) A nonresident yearly license to hunt, sixty dollars and seventy-five cents (\$60.75).

(7) A nonresident yearly license to trap, one hundred seventeen dollars and seventy-five cents (\$117.75). However, a license may not be issued to a resident of another state if that state does not give reciprocity rights to Indiana residents similar to those nonresident trapping privileges extended in Indiana.

(8) A resident or nonresident license to fish, including for trout and salmon, for one (1) day only, four dollars and seventy-five cents (\$4.75).

(9) A nonresident license to fish, excluding for trout and salmon, for seven (7) days only, twelve dollars and seventy-five cents (\$12.75).

(10) A nonresident license to hunt for five (5) consecutive days only, twenty-five dollars and seventy-five cents (\$25.75).

(11) A resident or nonresident yearly stamp to fish for trout and salmon, six dollars and seventy-five cents (\$6.75).

(12) A resident yearly license to take a deer with a shotgun, muzzle loading gun, or handgun, thirteen dollars and seventy-five cents (\$13.75).

(13) A resident yearly license to take a deer with a muzzle loading gun, thirteen dollars and seventy-five cents (\$13.75).

(14) A resident yearly license to take a deer with a bow and arrow, thirteen dollars and seventy-five cents (\$13.75).

(15) A nonresident yearly license to take a deer with a shotgun, muzzle loading gun, or handgun, one hundred twenty dollars and seventy-five cents (\$120.75).

(16) A nonresident yearly license to take a deer with a muzzle loading gun, one hundred twenty dollars and seventy-five cents (\$120.75).

(17) A nonresident yearly license to take a deer with a bow and arrow, one hundred twenty dollars and seventy-five cents (\$120.75).

(18) A resident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, thirteen dollars and seventy-five cents (\$13.75).

(19) A nonresident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, one hundred twenty dollars and seventy-five cents (\$120.75).

(20) A resident yearly license to take a turkey, fourteen dollars and seventy-five cents (\$14.75).

(21) A nonresident yearly license to take a turkey, one hundred fourteen dollars and seventy-five cents (\$114.75). However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.

(22) If a fall wild turkey season is established, a resident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, fourteen dollars and seventy-five cents (\$14.75).

(23) If a fall wild turkey season is established, a nonresident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, one hundred fourteen dollars and seventy-five cents (\$114.75). However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.

(24) A resident youth yearly consolidated license to hunt and

fish, six dollars (\$6). This license is subject to the following:

(A) An applicant must be less than eighteen (18) years of age.

(B) The license is in lieu of the resident yearly license to hunt and fish and all other yearly licenses, stamps, or permits to hunt and fish for a specific species or by a specific means.

(25) A resident senior yearly license to fish, three dollars (\$3). This license is subject to the following:

(A) An applicant must be at least sixty (60) years of age.

(B) The license is in place of the resident yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(b) The commission may set license fees to hunt, trap, or fish above the minimum fees established under subsection (a)."

Re-number all SECTIONS consecutively.

(Reference is to SB 554 as printed February 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 8, nays 3.

HOFFMAN, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 590, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-13-3-38.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat. 1115), the department may use an individual's fingerprints submitted by the individual for the following purposes:

(1) Determining the individual's suitability for employment with the state, or as an employee of a contractor of the state, in a position:

(A) that has a job description that includes contact with, care of, or supervision over a person less than eighteen (18) years of age;

(B) that has a job description that includes contact with, care of, or supervision over an endangered adult (as defined in IC 12-10-3-2), except the individual is not required to meet the standard for harmed or threatened with harm set forth in IC 12-10-3-2(a)(3);

(C) at a state institution managed by the office of the secretary of family and social services or state department of health;

(D) at the Indiana School for the Deaf established by IC 20-16-2-1;

(E) at the Indiana School for the Blind established by IC 20-15-2-1;

(F) at a juvenile detention facility;

(G) with the gaming commission under IC 4-33-3-16;

(H) with the department of financial institutions under IC 28-11-2-3; or

(I) that has a job description that includes access to or supervision over state financial or personnel data, including state warrants, banking codes, or payroll information pertaining to state employees.

(2) Identification in a request related to an application for a teacher's license submitted to the professional standards board established under IC 20-1-1.4.

(3) Use by the Indiana board of pharmacy in determining the individual's suitability for a position or employment with a wholesale drug distributor, as specified in IC 25-26-14-16(b), IC 25-26-14-16.5(b), IC 25-26-14-17.8(c), and IC 25-26-14-20.

An applicant shall submit the fingerprints in an appropriate format or on forms provided for the employment or license application. The department shall charge each applicant the fee established under section 28 of this chapter and by federal authorities to defray the costs associated with a search for and classification of the applicant's

fingerprints. The department may forward fingerprints submitted by an applicant to the Federal Bureau of Investigation or any other agency for processing. The state personnel department or the agency to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(b) An applicant who is an employee of the state may not be charged under subsection (a).

(c) Subsection (a)(1) does not apply to an employee of a contractor of the state if the contract involves the construction or repair of a capital project or other public works project of the state."

Page 2, line 35, after "writing" insert "**or is entered into an electronic format**".

Page 2, line 35, delete "pharmacist." and insert "**pharmacist or pharmacist intern (as defined by IC 25-26-13-2).**".

Page 7, line 25, after "written" insert "**or electronically transmitted**".

Page 13, line 39, delete "computer," and insert "**computer**".

Page 17, line 3, delete "pharmacist" and insert "**pharmacy**".

Page 17, between lines 5 and 6, begin a new paragraph and insert: "SECTION 19. IC 25-26-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) This chapter applies to any individual, partnership, limited liability company, corporation, or business firm:

(1) located within or outside Indiana; and

(2) engaging in the wholesale distribution of legend drugs within in Indiana.

(b) Except as required by federal law or regulation, the requirements of this chapter do not apply to a manufacturer that is approved by the federal Food and Drug Administration. However, the board may adopt rules concerning manufacturers that the board considers appropriate and necessary.

SECTION 20. IC 25-26-14-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. As used in this chapter, "adulterated" refers to a drug that:

(1) consists in whole or in part of a filthy, putrid, or decomposed substance;

(2) has been produced, prepared, packed, or held under unsanitary conditions and may have been contaminated or rendered injurious to health;

(3) has been subjected to conditions in the manufacture, processing, packing, or holding of the drug that do not conform to current standards of manufacturing to ensure that the drug is safe for use and possesses the identity, strength, quality, and purity characteristics that the drug is represented to possess;

(4) is contained in a container composed of a poisonous or deleterious substance that may render the drug injurious to health;

(5) bears or contains, for purposes of coloring only, a color additive that is unsafe;

(6) is of a different strength, quality, or purity from the official compendium standard for the drug; or

(7) does not meet the considerations of the federal Food, Drug, and Cosmetic Act.

SECTION 21. IC 25-26-14-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.7. As used in this chapter, "authenticate" means to affirmatively verify before distribution occurs that each transaction that is listed on:

(1) the pedigree of a drug; and

(2) other accompanying documentation for a drug;

has occurred.

SECTION 22. IC 25-26-14-1.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.8. As used in this chapter, "authorized distributor" means a wholesale drug distributor with which a manufacturer has established an ongoing relationship to distribute the manufacturer's products. For purposes of this section, an ongoing relationship exists between a wholesale drug distributor, including any affiliated group (as defined in Section 1504 of the Internal Revenue Code) of which the wholesale distributor is a member, and a manufacturer if the wholesale

drug distributor:

- (1) has a written agreement currently in effect with the manufacturer evidencing an ongoing relationship;
- (2) is listed on the manufacturer's current monthly updated list of authorized distributors; or
- (3) has a verifiable account with the manufacturer and a minimal transaction or volume requirement limit of:
 - (A) five thousand (5,000) units per company in the previous twelve (12) months; or
 - (B) twelve (12) purchases at the manufacturer's minimum purchasing requirement per invoice in the previous twelve (12) months.

SECTION 23. IC 25-26-14-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. As used in this chapter, "compendium" refers to:

- (1) the United States Pharmacopoeia;
- (2) the Homeopathic Pharmacopoeia of the United States;
- (3) the National Formulary;
- (4) a drug approved by the federal Food and Drug Administration; or
- (5) a supplement to a document specified in subdivision (1), (2), or (3).

SECTION 24. IC 25-26-14-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.2. As used in this chapter, "contraband" refers to a drug:

- (1) that is counterfeit;
- (2) that is stolen;
- (3) that is misbranded;
- (4) that is obtained by fraud;
- (5) that is purchased by a nonprofit institution for the nonprofit institution's own use and placed in commerce in violation of the own use agreement for the drug;
- (6) for which a required pedigree does not exist; or
- (7) for which a pedigree in existence:
 - (A) has been forged, counterfeited, or falsely created; or
 - (B) contains any altered, false, or misrepresented information.

SECTION 25. IC 25-26-14-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.3. As used in this chapter, "counterfeit" refers to a drug, or the container, seal, or labeling of a drug, that, without authorization, bears the trademark, trade name, or other identifying mark or imprint of a manufacturer, processor, packer, or distributor other than the person that manufactured, processed, packed, or distributed the drug.

SECTION 26. IC 25-26-14-4.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.4. As used in this chapter, "deliver" means the actual, constructive, or attempted transfer of a drug from one (1) person to another.

SECTION 27. IC 25-26-14-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. As used in this chapter, "designated representative" means an individual who:

- (1) is designated by a wholesale drug distributor;
- (2) serves as the wholesale drug distributor's responsible individual with the board; and
- (3) is actively involved in and aware of the actual daily operation of the wholesale drug distributor.

SECTION 28. IC 25-26-14-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.7. As used in this chapter, "distribute" means to sell, offer to sell, deliver, offer to deliver, broker, give away, or transfer a legend drug, whether by passage of title or physical movement, or both. The term does not include the following:

- (1) Dispensing or administering a legend drug.
- (2) Delivering or offering to deliver a legend drug by a common carrier in the usual course of business as a common carrier.
- (3) The provision of a drug sample to a patient by a:

(A) practitioner;

(B) health care professional acting at the direction and under the supervision of a practitioner; or

(C) hospital's or other health care entity's pharmacy that received the drug sample in accordance with this chapter and other applicable law to administer or dispense and that is acting at the direction of a practitioner;

licensed to prescribe the legend drug.

SECTION 29. IC 25-26-14-4.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.9. As used in this chapter, "drug" means any of the following:

(1) Articles recognized in an official compendium and designated by the board for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals.

(2) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals.

(3) Articles other than food intended to affect the structure or function of the body of humans or animals.

(4) Articles intended for use as a component of an article specified in subdivision (1), (2), or (3).

The term does not include a device or a device component, part, or accessory.

SECTION 30. IC 25-26-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. As used in this chapter, "health care entity" means any organization or business that provides diagnostic, medical, surgical, dental treatment, or rehabilitative care. The term does not include a pharmacy or wholesale drug distributor.

SECTION 31. IC 25-26-14-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.5. As used in this chapter, "label" means a display of written, printed, or graphic matter on the immediate container of a legend drug.

SECTION 32. IC 25-26-14-6.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.6. As used in this chapter, "labeling" means labels and other written, printed, or graphic matter:

(1) on a legend drug or a legend drug's container or wrapper; or

(2) accompanying a legend drug.

SECTION 33. IC 25-26-14-8.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8.3. As used in this chapter, "misbranded" means that a legend drug's label:

(1) is false or misleading;

(2) does not bear the name and address of the manufacturer, packer, or distributor or does not contain an accurate statement of the quantities of active ingredients of the legend drug;

(3) does not show an accurate monograph for the legend drug; or

(4) does not comply with any other requirements of the federal Food, Drug and Cosmetic Act.

SECTION 34. IC 25-26-14-8.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8.7. As used in this chapter, "pedigree" means a statement or record in a written or an electronic form that is approved by the board, that records each distribution of a legend drug from the sale by the manufacturer or, except for drugs on the specified list of susceptible products, from the last authorized distributor of record through acquisition and sale by each wholesale drug distributor, and that includes the following information for each transaction:

(1) The source of the legend drug, including the name and principal address of the seller.

(2) The:

(A) amount and dosage form and strength;

(B) date of purchase;

(C) sales invoice number;

- (D) container size;
 - (E) number of containers;
 - (F) lot number; and
 - (G) proprietary and established name;
- of the legend drug.

(3) The:

- (A) business name and address of each owner of the legend drug; and
 - (B) legend drug's shipping information, including the name and address of the facility of each person certifying delivery or receipt of the legend drug.
- (4) Information that states that the wholesale drug distributor has acted with due diligence as required under this chapter with respect to another wholesale drug distributor from which the wholesale drug distributor purchased or may have purchased the legend drug.
- (5) A certification from the designated representative of the wholesale drug distributor that the information contained in the document is true and accurate under penalty of perjury.

SECTION 35. IC 25-26-14-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. As used in this chapter, "person" means an individual, a partnership, a business firm, a limited liability company, ~~or~~ a corporation, **or another entity, including a governmental entity.**

SECTION 36. IC 25-26-14-9.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9.2. **As used in this chapter, "practitioner" has the meaning set forth in IC 16-42-19-5.**

SECTION 37. IC 25-26-14-9.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9.3. **As used in this chapter, "repackage" means changing the container, wrapper, quantity, or labeling of a legend drug to further the distribution of the legend drug.**

SECTION 38. IC 25-26-14-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.5. **As used in this chapter, "specified list of susceptible products" means a specific list of legend drugs established by the board, the board's agent, or a third party approved by the board, as:**

- (1) **susceptible to adulteration, counterfeiting, or diversion; and**
- (2) **posing the potential for a particular public health risk.**

SECTION 39. IC 25-26-14-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. As used in this chapter, "wholesale distribution" means ~~distribution of~~ **to distribute** legend drugs to persons other than a consumer or patient. The term does not include:

- (1) a sale **or transfer** between a division, a subsidiary, a parent, an affiliated, or a related company under the common ownership and control of a corporate entity;
- (2) the purchase or acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug for the hospital's or health care entity's own use from the group purchasing organization or from other hospitals or health care entities that are members of the organization;
- (3) the sale of a drug by a charitable organization described in Section 501(c)(3) of the Internal Revenue Code, to a nonprofit affiliate of the organization to the extent otherwise permitted by law;
- (4) the sale of a drug among hospitals or other health care entities that are under common control;
- (5) the sale of a drug for emergency medical reasons, including transfers of legend drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage, if the gross dollar value of the transfers does not exceed five percent (5%) of the total legend drug sales revenue of either the transferor or transferee pharmacy during any twelve (12) consecutive month period;
- (6) the sale of a drug or the dispensing of a drug pursuant to a prescription;
- (7) the distribution of drug samples by manufacturers'

representatives or distributors' representatives;

- (8) the sale of blood and blood components intended for transfusion;
- (9) the sale of a drug by a retail pharmacy to a practitioner (as defined in IC 25-26-13-2) for office use, if the gross dollar value of the transfers does not exceed five percent (5%) of the retail pharmacy's total legend drug sales during any twelve (12) consecutive months; ~~or~~
- (10) the sale of a drug by a retail pharmacy that is ending its business and liquidating its inventory to another retail pharmacy;
- (11) **drug returns by a hospital, health care entity, or charitable institution conducted under 21 CFR 203.23;**
- (12) **the sale of minimal quantities of drugs by retail pharmacies to licensed practitioners for office use; or**
- (13) **the distribution of prescription drugs by the original manufacturer of the finished form of the prescription drug or the distribution of the prescription drugs by a co-promoting partner of the original manufacturer of the finished form of the prescription drug.**

SECTION 40. IC 25-26-14-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. As used in this chapter, "wholesale drug distributor" means a person engaged in wholesale distribution of legend drugs, including:

- (1) manufacturers;
- (2) repackers;
- (3) own-label distributors;
- (4) private-label distributors;
- (5) jobbers;
- (6) brokers;
- (7) warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses;
- (8) independent wholesale drug traders; and
- (9) retail and hospital pharmacies that conduct wholesale distributions.

The term does not include a common carrier or person hired solely to transport prescription drugs.

SECTION 41. IC 25-26-14-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) ~~After September 14, 1992,~~ A person may not engage in wholesale distributions of legend drugs without: ~~having~~

- (1) **obtaining and maintaining accreditation or certification from an accreditation body approved by the board under subsection (g);**
- (2) **obtaining and maintaining a license from issued by the board; and**
- (3) **paying any reasonable fee required by the board.**

(b) The board may not issue or renew the license of a wholesale drug distributor that does not comply with this chapter.

- (c) The board ~~may~~ **shall** require a separate license for
 - (1) ~~each facility directly or indirectly owned or operated by the same business in Indiana; or~~
 - (2) ~~a parent entity with divisions, subsidiaries, or affiliate companies in Indiana when operations are conducted at more than one (1) location and there exists joint ownership and control among all the entities; or location where wholesale distribution operations are conducted.~~

(d) An agent or employee of any licensed wholesale drug distributor does not need a license and may lawfully possess pharmaceutical drugs when acting in the usual course of business or employment.

(e) The issuance of a license under this chapter does not affect tax liability imposed by the department of state revenue or the department of local government finance on any wholesale drug distributor.

(f) The board may adopt rules that permit out-of-state wholesale drug distributors to obtain a license on the basis of reciprocity if:

- (1) an out-of-state wholesale drug distributor possesses a valid license granted by another state and the legal standards for licensure in the other state are comparable to the standards under this chapter; and
- (2) the other state extends reciprocity to wholesale drug distributors licensed in Indiana.

However, if the requirements for licensure under this chapter are more restrictive than the standards of the other state, the out-of-state wholesale drug distributor must comply with the additional requirements of this chapter to obtain a license under this chapter.

(g) The board shall adopt rules under IC 4-22-2 to approve an accreditation body to:

- (1) evaluate a wholesale drug distributor's operations to determine compliance with:
 - (A) professional standards;
 - (B) this chapter; and
 - (C) any other applicable law; and
- (2) perform inspections of each facility and location where wholesale distribution operations are conducted by the wholesale drug distributor.

SECTION 42. IC 25-26-14-14.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. After June 30, 2006, a wholesale drug distributor may not accept or deliver a legend drug without a current, accompanying pedigree.

SECTION 43. IC 25-26-14-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The board shall require the following minimum information from each wholesale drug distributor as part of the license described in section 14 of this chapter and as part of any renewal of such license:

- (1) The name, full business address, and telephone number of the licensee.
- (2) All trade or business names used by the licensee.
- (3) Addresses, telephone numbers, and the names of contact persons for all facilities used by the licensee for the storage, handling, and distribution of legend drugs.
- (4) The type of ownership of operation.
- (5) The name of each owner and operator of the licensee, including:

- (A) if an individual, the name, address, Social Security number, and date of birth of the individual;
- (B) if a partnership, the name, address, Social Security number, and date of birth of each partner, and the name of the partnership and federal employer identification number;

(C) if a corporation:

- (i) the name, address, Social Security number, date of birth, and title of each corporate officer and director;
- (ii) the corporate names, and the name of the state of incorporation, the federal employer identification number, and the name of the parent company, if any; and
- (iii) the name, address, and Social Security number of each shareholder owning ten percent (10%) or more of the voting stock of the corporation, unless the stock is traded on a major stock exchange and not traded over the counter;

(D) if a limited liability company, the name of each manager and member, the name and federal identification number of the limited liability company, and the name of the state where organized; and

(E) if a sole proprietorship, the full name, address, Social Security number, and date of birth of the sole proprietor and the name and federal employer identification number of the business entity.

(6) The name, address, and telephone number of the person designated by the licensee as responsible for the operation representative of the facilities: each facility.

(7) Additional information concerning record keeping required under this chapter.

(b) The board shall require a wholesale drug distributor to post a surety bond of at least one hundred thousand dollars (\$100,000), or an equivalent means of security acceptable to the board, including insurance, an irrevocable letter of credit, or funds deposited in a trust account or financial institution, to secure payment of any administrative penalties that may be imposed by the board and any fees and costs that may be incurred by the board and that:

- (1) are related to a license held by the wholesale drug distributor;
- (2) are authorized under Indiana law; and
- (3) the wholesale drug distributor fails to pay less than thirty (30) days after the penalties, fees, or costs become final.

However, a separate surety bond or an equivalent means of security is not required for a separate location or a company of the wholesale drug distributor.

(c) The board may make a claim against a bond or security posted under subsection (b) within one (1) year after the wholesale drug distributor's license is no longer valid or sixty (60) days after the conclusion of:

- (1) an administrative or legal proceeding before or on behalf of the board that involves the wholesale drug distributor and results in penalties, fees, or costs described in subsection (b); or
- (2) an appeal of a proceeding described in subdivision (1);

whichever occurs later.

(d) The board shall inspect each facility where wholesale distribution operations are conducted before initial licensure and periodically thereafter in accordance with a schedule determined by the board, but at least one (1) time in each three (3) year period.

(e) A wholesale drug distributor must publicly display or have readily available all licenses and the most recent inspection report administered by the board.

~~(b)~~ (f) A material change in any information in subsection (a) of this section must be submitted to the board at the time of license renewal or within thirty (30) days from the date of the change, whichever occurs first.

SECTION 44. IC 25-26-14-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15.5. (a) A wholesale drug distributor that is an authorized distributor of a manufacturer is not considered to be an authorized distributor of the manufacturer under this chapter unless:

- (1) the manufacturer files the manufacturer's monthly updated list of authorized distributors with the board;
- (2) the list is available from the manufacturer upon request or on the Internet; and
- (3) the manufacturer notifies the board of any change to the list within ten (10) days after the change.

(b) The board shall make available on the board's Internet web site a manufacturer's list of authorized distributors filed as described in subsection (a).

SECTION 45. IC 25-26-14-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) In reviewing, for purposes of licensure or renewal of a license under this chapter, the qualifications of persons who engage in wholesale distribution of legend drugs within in Indiana, the board shall consider the following factors:

(1) A conviction of the applicant relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances: finding by the board that the applicant has:

- (A) violated a law; or
- (B) been disciplined by a regulatory agency for violating a law;

related to drug distribution in any state.

(2) A felony criminal conviction of the applicant.

(3) The applicant's past experience in the manufacture or distribution of legend drugs, including controlled substances.

(4) The furnishing by the applicant of false or fraudulent material in any application made in connection with drug manufacturing or distribution.

(5) Suspension or revocation of any license held by the applicant or the applicant's owner or the imposition of sanctions against the applicant or the applicant's owner by the federal or a state or local government of any license held by the applicant for the manufacture or distribution of any drugs, including controlled substances.

(6) Compliance with licensing requirements under previously

granted licenses.

(7) Compliance with requirements to maintain and make available to the board or to federal, state, or local law enforcement officials those records required under this chapter.

(8) Any other factors or qualifications the board considers relevant to the public health and safety, including whether the granting of the license would not be in the public interest.

(b) In reviewing an application for licensure or renewal of a license under this chapter, the board shall consider the results of a national criminal history background check (as defined in IC 10-13-3-12) for:

- (1) the applicant;
- (2) all personnel involved in the operations of the wholesale drug distributor;
- (3) the most senior individual responsible for facility operations, purchasing, and inventory control, and the individual to whom the senior individual reports;
- (4) company officers;
- (5) key management personnel;
- (6) principals; and
- (7) owners with at least a ten percent (10%) interest in the wholesale drug distributor, if the wholesale drug distributor is a nonpublicly held company.

The national criminal history background check must be conducted at the applicant's expense and must include all states of residence since the applicant became eighteen (18) years of age.

(c) An applicant shall provide and attest to:

- (1) an affirmation that the applicant has not been involved in or convicted of any criminal or prohibited acts; or
- (2) a statement providing a complete disclosure of the applicant's past criminal convictions and violations of state and federal laws;

regarding drugs.

SECTION 46. IC 25-26-14-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16.5. (a) A wholesale drug distributor shall designate in writing on a form prescribed by the board a designated representative for each of the wholesale drug distributor's facilities licensed under this chapter.

(b) A designated representative shall submit to the board an application prescribed by the board and provide to the board the following:

- (1) A set of the designated representative's fingerprints, under procedures specified by the board and according to requirements of the state police department under IC 10-13-3-38.5, with the payment of the amount equal to the costs of a national criminal history background check (as defined in IC 10-13-3-12) of the designated representative to be obtained by the state police department.
- (2) The date and place of birth of the designated representative.
- (3) A list of the occupations, positions of employment, and offices held by the designated representative during the immediately preceding seven (7) years, including the principal business and address of the organization with which the occupation, position, or office was associated.
- (4) A statement concerning whether the designated representative, during the immediately preceding seven (7) years, has been temporarily or permanently enjoined by a court from violating a state or federal law regulating the possession, control, or distribution of drugs, including details of related events.
- (5) A description of any involvement by the designated representative with a business that:
 - (A) manufactured, administered, prescribed, distributed, or stored drugs; and
 - (B) was named as a party in a lawsuit;
 during the immediately preceding seven (7) years, including investments other than the ownership of stock in a publicly traded company or mutual fund.
- (6) A description of any criminal offense of which the designated representative has been convicted, regardless of whether adjudication of guilt was withheld or whether the

designated representative pleaded nolo contendere. If the designated representative indicates that a criminal conviction is under appeal, the designated representative shall submit to the board:

(A) a copy of the notice of appeal; and

(B) a copy of the final written order of disposition.

(7) A photograph of the designated representative taken within the immediately preceding thirty (30) days under procedures specified by the board.

(8) A list of the name, address, occupation, and date and place of birth of each member of the designated representative's immediate family, including the designated representative's spouse, children, parents, and siblings, and the spouses of the designated representative's children and siblings. Information collected under this subdivision is confidential.

(9) Any other information required by the board.

(c) A designated representative must have at least two (2) years of verifiable full-time managerial or supervisory experience in a pharmacy or with a wholesale drug distributor licensed under this chapter or in another state. The designated representative's responsibilities must have included record keeping, storage, and shipment of legend drugs.

(d) A designated representative shall not serve as the designated representative for more than one (1) wholesale drug distributor facility at any one (1) time.

(e) A designated representative shall be actively involved and aware of the actual daily operations of the wholesale drug distributor as follows:

- (1) Be employed full time in a managerial position by the wholesale drug distributor.
- (2) Be physically present at the wholesale drug distributor's facility during normal business hours, except when absent due to illness, family illness or death, scheduled vacation, or another authorized absence.
- (3) Be aware of and knowledgeable about all policies and procedures pertaining to the operations of the wholesale drug distributor.

(f) A designated representative must complete continuing education programs specified by the board regarding state and federal law relevant to the distribution, handling, and storage of legend drugs.

SECTION 47. IC 25-26-14-16.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16.6. (a) A wholesale drug distributor that:

- (1) is licensed under this chapter;
- (2) is located outside Indiana; and
- (3) distributes legend drugs in Indiana;

shall designate an agent in Indiana for service of process.

(b) A wholesale drug distributor that does not designate an agent under subsection (a) is considered to have designated the secretary of state to be the wholesale drug distributor's true and lawful attorney, upon whom legal process may be served in an action or a proceeding against the wholesale drug distributor arising from the wholesale drug distributor's wholesale distribution operations.

(c) The board shall mail a copy of any service of process to a wholesale drug distributor by certified mail, return receipt requested, postage prepaid, at the address designated by the wholesale drug distributor on the application for licensure submitted under this chapter.

(d) Service of process on the secretary of state is sufficient in an action or a proceeding against a wholesale drug distributor that is not licensed under this chapter.

SECTION 48. IC 25-26-14-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. As a condition for receiving and retaining any a wholesale drug distributor license issued under to this chapter, each an applicant must satisfy the board that the applicant has and will continuously maintain the following:

- (1) Acceptable storage and handling conditions and facilities standards for each facility at which legend drugs are received, stored, warehoused, handled, held, offered, marketed, or displayed, or from which legend drugs are

transported, including:

- (A) suitable construction of the facility and appropriate monitoring equipment to ensure that legend drugs in the facility are maintained in accordance with labeling or in compliance with official compendium standards;
- (B) suitable size and construction to facilitate cleaning, maintenance, and proper wholesale distribution operations;
- (C) adequate storage areas to provide appropriate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;
- (D) a quarantine area for separate storage of legend drugs that are outdated, damaged, deteriorated, misbranded, adulterated, counterfeit, suspected counterfeit, otherwise unfit for distribution, or contained in immediate or sealed secondary containers that have been opened;
- (E) maintenance of the facility in a clean and orderly condition;
- (F) maintenance of the facility in a commercial, nonresidential building; and
- (G) freedom of the facility from infestation.

(2) Security of each facility from unauthorized entry as follows:

- (A) Entry into areas where legend drugs are held is limited to authorized personnel.
- (B) Each facility is equipped with a security system that includes:
 - ~~(A)~~ (i) an after hours central alarm or a comparable entry detection capability;
 - ~~(B)~~ (ii) restricted premises access;
 - ~~(C)~~ (iii) adequate outside perimeter lighting; and
 - ~~(D)~~ (iv) safeguards against theft and diversion, including employee theft and theft or diversion facilitated or hidden by tampering with computers or electronic records; and
 - (v) a means of protecting the integrity and confidentiality of data and documents and of making the data and documents readily available to the board and other state and federal law enforcement officials.
- (3) A reasonable system of record keeping that as follows:
 - (A) The system describes all the wholesale distributor's activities governed by this chapter for the ~~two~~ (2) three (3) year period after the disposition of each product and all records are maintained for at least three (3) years after disposition of the legend drug to which the record applies.
 - (B) The system is reasonably accessible as determined by board rules in any inspection authorized by the board.
 - (C) The system provides a means to establish and maintain inventories and records of transactions regarding the receipt and distribution or other disposition of all legend drugs, including the following:
 - (i) For legend drugs manufactured by a manufacturer for which the wholesale drug distributor is an authorized distributor, a pedigree for each distributed legend drug that is on the specified list of susceptible products or that leaves the normal distribution chain of custody from the manufacturer to a wholesale drug distributor, to a pharmacy, and to the patient or the patient's agent.
 - (ii) For legend drugs manufactured by a manufacturer for which the wholesale drug distributor is not an authorized distributor, a pedigree for each distributed legend drug.
 - (iii) After January 1, 2007, at the board's discretion, for each legend drug received and distributed by the wholesale drug distributor, an electronic pedigree developed in accordance with standards and requirements of the board to authenticate, track, and trace legend drugs. The standards and requirements of the board may indicate the information required to be part of the electronic pedigree.

(iv) Dates of receipt and distribution or other disposition of the legend drugs by the wholesale drug distributor.

(v) Availability for inspection and photocopying by any authorized official of a local, state, or federal governmental agency for three (3) years after the creation date of the inventories and records.

(D) Onsite electronic inventories and records are immediately available for inspection. Records kept at a central location apart from the inspection site and not electronically retrievable are available for inspection within two (2) working days after a request by an authorized official of a local, state, or federal governmental agency.

(E) The system maintains an ongoing list of persons with whom the wholesale drug distributor does business.

(F) The system provides for reporting counterfeit or suspected counterfeit legend drugs or counterfeiting or suspected counterfeiting activities to the board and federal Food and Drug Administration.

(G) The system provides for mandatory reporting of significant shortages or losses of legend drugs to the board and federal Food and Drug Administration if diversion is known or suspected.

(4) Written policies and procedures to which the wholesale drug distributor adheres for the receipt, security, storage, inventory, transport, shipping, and distribution of legend drugs, and that assure reasonable wholesale distributor preparation for, protection against, and handling of any facility security or operation problems, including the following:

~~(A) those Facility security or operation problems caused by natural disaster or government emergency.~~

~~(B) Correction of inventory inaccuracies.~~

~~(C) Product shipping and receiving problems.~~

~~(D) Quarantine and return to the manufacturer or destruction in accordance with state and federal law of all outdated product products and outdated or expired legend drugs, including appropriate documentation and witnessing.~~

~~(E) Appropriate disposition of returned goods.~~

~~(F) Product recalls.~~

(G) Identifying, recording, and reporting losses or thefts.

(H) Implementation and maintenance of a continuous quality improvement system.

(I) Recalls and withdrawals of legend drugs due to:

(i) an action initiated by the federal Food and Drug Administration or another federal, state, or local governmental agency;

(ii) a volunteer action by the manufacturer to remove defective or potentially defective legend drugs from the market; or

(iii) an action undertaken to promote public health and safety by replacing existing merchandise with an improved product or a new package design.

(J) Disposition and destruction of containers, labels, and packaging to ensure that the containers, labels, and packaging are not used in counterfeiting activities, including necessary documentation and witnessing in accordance with state and federal law.

(K) Investigation of discrepancies in the inventory involving counterfeit, suspected counterfeit, contraband, or suspected contraband legend drugs and reporting of discrepancies within three (3) business days to the board and any other appropriate state or federal governmental agency.

(L) Reporting of criminal or suspected criminal activities involving the inventory of legend drugs to the board within three (3) business days.

(M) Conducting for cause authentication and random authentication as required under sections 17.2, 17.3, and 17.8 of this chapter.

(5) Written policies and procedures and sufficient inspection procedures for all incoming and outgoing product shipments,

including the following:

(A) Upon receipt, visual examination of each shipping container in a manner adequate to identify the legend drugs in the container and to determine whether the legend drugs may be outdated, adulterated, misbranded, contaminated, contraband, counterfeit, suspected counterfeit, damaged, or otherwise unfit for distribution.

(B) Upon receipt, review of records by the wholesale drug distributor for the acquisition of legend drugs for accuracy and completeness, considering the:

- (i) total facts and circumstances surrounding each transaction involving the legend drugs; and
- (ii) wholesale drug distributors involved.

(C) Quarantine of a legend drug considered to be outdated, adulterated, misbranded, contaminated, contraband, counterfeit, suspected counterfeit, damaged, or otherwise unfit for distribution until:

- (i) examination and a determination that the legend drug is not outdated, adulterated, misbranded, contaminated, contraband, counterfeit, damaged, or otherwise unfit for distribution; or
- (ii) the legend drug is destroyed or returned to the manufacturer or wholesale drug distributor from which the legend drug was acquired.

(D) Written policies and procedures to ensure that a legend drug that was:

- (i) ordered in error or in excess of need by the wholesale drug distributor;
- (ii) identified within three (3) business days after receipt as ordered in error or in excess of need; and
- (iii) maintained such that the legend drug's integrity has not been compromised;

may be returned to the manufacturer or wholesale drug distributor from which the legend drug was acquired if the appropriate documentation is completed and necessary notations are made to a required pedigree.

(E) Written policies and procedures to ensure that if the wholesale drug distributor determines that a legend drug is adulterated, misbranded, counterfeit, or suspected counterfeit, the wholesale drug distributor provides notice of the adulteration, misbranding, counterfeiting, or suspected counterfeiting to the board, the federal Food and Drug Administration, and the manufacturer or wholesale drug distributor from which the legend drug was acquired within three (3) business days.

(F) Written policies and procedures to ensure that if the immediate or sealed outer or secondary container or labeling of a legend drug is adulterated, misbranded, counterfeit, or suspected counterfeit, the wholesale drug distributor:

- (i) quarantines the legend drug until the legend drug is destroyed or returned to the manufacturer or wholesale drug distributor from which the legend drug was acquired; and
- (ii) provides notice of the adulteration, misbranding, counterfeiting, or suspected counterfeiting to the board, the federal Food and Drug Administration, and the manufacturer or wholesale drug distributor from which the legend drug was acquired within three (3) business days.

(G) Written policies and procedures to ensure that a legend drug that has been opened or used, but is not adulterated, misbranded, counterfeit, or suspected counterfeit, is identified as such and quarantined until the legend drug is destroyed or returned to the manufacturer or wholesale drug distributor from which the legend drug was acquired.

(H) Written policies and procedures to ensure that:

- (i) a legend drug that will be returned to a manufacturer or wholesale drug distributor is kept under proper conditions for storage, handling, transport, and shipment before the return; and
- (ii) documentation showing that proper conditions were maintained is provided to the manufacturer or

wholesale drug distributor to which the legend drug is returned.

(I) Inspection of each outgoing shipment for identity of the legend drugs and to ensure that the legend drugs have not been damaged in storage or held under improper conditions.

(J) Written policies and procedures to ensure that if conditions under which a legend drug has been returned to the wholesale drug distributor cast doubt on the legend drug's safety, identity, strength, quality, or purity, the legend drug is destroyed or returned to the manufacturer or wholesale drug distributor from which the legend drug was acquired unless examination, testing, or other investigation proves that the legend drug meets appropriate standards of safety, identity, strength, quality, and purity. In determining whether the conditions under which a legend drug has been returned cast doubt on the legend drug's safety, identity, strength, quality, or purity, the wholesale drug distributor considers the conditions under which the legend drug has been held, stored, or shipped before or during the legend drug's return and the condition of the legend drug and the legend drug's container, carton, or labeling upon receipt of the returned legend drug.

(K) Written policies and procedures to ensure that contraband, counterfeit, or suspected counterfeit legend drugs, other evidence of criminal activity, and accompanying documentation are retained until a disposition is authorized by the board and the federal Food and Drug Administration.

(L) Written policies and procedures to ensure that any shipping, immediate, or sealed outer or secondary container or labeling, and accompanying documentation, suspected of or determined to be counterfeit or fraudulent, are retained until a disposition is authorized by the board and federal Food and Drug Administration.

(6) Operations in compliance with all federal legal requirements applicable to wholesale drug distribution.

(7) Written policies and procedures to provide for the secure and confidential storage of information with restricted access and to protect the integrity and confidentiality of the information.

(8) A pedigree as required under this chapter, including an electronic pedigree developed in accordance with standards and requirements of the board under subdivision (3)(C)(iii).

(9) Appropriate inventory management and control systems to:

- (A) prevent; and
- (B) allow detection and documentation of;

theft, counterfeiting, or diversion of legend drugs.

(10) If the wholesale drug distributor is involved in the distribution of controlled substances, registration with the federal Drug Enforcement Administration and board and compliance with all laws related to the storage, handling, transport, shipment, and distribution of controlled substances.

(11) Isolation of controlled substances from noncontrolled substances and storage of the controlled substances in a secure area in accordance with federal Drug Enforcement Administration security requirements and standards.

(12) Technology and equipment that allow the wholesale drug distributor to authenticate, track, and trace legend drugs. The technology and equipment meets standards set by the board and is used as required by the board to conduct for cause and random tracking, tracing, and authentication of legend drugs.

(13) Employment, training, and documentation of the training concerning the proper use of the technology and equipment required under subdivision (12).

(14) Packaging operations in accordance with an official compendium allowing the identification of a compromise in the integrity of the legend drugs due to tampering or adverse storage conditions.

SECTION 49. IC 25-26-14-17.2 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17.2. (a) A wholesale drug distributor that purchases legend drugs from another wholesale drug distributor and has reason to believe that a legend drug purchased from the other wholesale drug distributor is counterfeit, suspected counterfeit, misbranded, or adulterated shall conduct a for cause authentication of each distribution of the legend drug back to the manufacturer.

(b) A wholesale drug distributor that has engaged in the distribution of a legend drug for which a purchasing wholesale drug distributor conducts a for cause authentication under subsection (a) shall provide, upon request, detailed information regarding the distribution of the legend drug, including the:

- (1) date of purchase of the legend drug;
- (2) lot number of the legend drug;
- (3) sales invoice number of the legend drug; and
- (4) contact information, including name, address, telephone number, and electronic mail address of the wholesale drug distributor that sold the legend drug.

(c) If a wholesale drug distributor conducts a for cause authentication under subsection (a) and is unable to authenticate each distribution of the legend drug, the wholesale drug distributor shall quarantine the legend drug and report the circumstances to the board and the federal Food and Drug Administration not more than ten (10) business days after completing the attempted authentication.

(d) If a wholesale drug distributor authenticates the distribution of a legend drug back to the manufacturer under subsection (a), the wholesale drug distributor shall maintain records of the authentication for three (3) years and shall produce the records for the board and the federal Food and Drug Administration upon request.

SECTION 50. IC 25-26-14-17.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17.3. (a) A wholesale drug distributor that purchases legend drugs from another wholesale drug distributor shall, at least annually, conduct a random authentication of a required pedigree on at least ten percent (10%) of sales units of wholesale distributions of legend drugs purchased from other wholesale drug distributors.

(b) If a wholesale drug distributor purchases from another wholesale drug distributor a legend drug that is on the specified list of susceptible products, the wholesale drug distributor shall, at least quarterly, conduct a random authentication of a required pedigree on at least ninety percent (90%) of sales units of distributions of legend drugs that are on the specified list of susceptible products and that were purchased from other wholesale drug distributors.

(c) A wholesale drug distributor from whom another wholesale drug distributor purchases legend drugs shall cooperate with random authentications of pedigrees described in this section and provide requested information in a timely manner.

(d) If a wholesale drug distributor conducts a random authentication under this section and is unable to authenticate each distribution of the legend drug, the wholesale drug distributor shall quarantine the legend drug and report the circumstances to the board and the federal Food and Drug Administration not more than ten (10) business days after completing the attempted authentication.

SECTION 51. IC 25-26-14-17.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17.8. (a) A wholesale drug distributor licensed under this chapter that purchases legend drugs from a wholesale drug distributor that is not licensed under this chapter shall act with due diligence as required under this section.

(b) Before the initial purchase of legend drugs from the unlicensed wholesale drug distributor, the licensed wholesale drug distributor shall obtain the following information from the unlicensed wholesale drug distributor:

- (1) A list of states in which the unlicensed wholesale drug distributor is licensed.
- (2) A list of states into which the unlicensed wholesale drug distributor ships legend drugs.

(3) Copies of all state and federal regulatory licenses and registrations held by the unlicensed wholesale drug distributor.

(4) The unlicensed wholesale drug distributor's most recent facility inspection reports.

(5) Information regarding general and product liability insurance maintained by the unlicensed wholesale drug distributor, including copies of relevant policies.

(6) A list of other names under which the unlicensed wholesale drug distributor does business or has been previously known.

(7) A list of corporate officers and managerial employees of the unlicensed wholesale drug distributor.

(8) A list of all owners of the unlicensed wholesale drug distributor that own more than ten percent (10%) of the unlicensed wholesale drug distributor, unless the unlicensed wholesale drug distributor is publicly traded.

(9) A list of all disciplinary actions taken against the unlicensed wholesale drug distributor by state and federal agencies.

(10) A description, including the address, dimensions, and other relevant information, of each facility used by the unlicensed wholesale drug distributor for legend drug storage and distribution.

(11) A description of legend drug import and export activities of the unlicensed wholesale drug distributor.

(12) A description of the unlicensed wholesale drug distributor's procedures to ensure compliance with this chapter.

(13) A statement:

(A) as to whether; and

(B) of the identity of each manufacturer for which;

the unlicensed wholesale drug distributor is an authorized distributor.

(c) Before the initial purchase of legend drugs from an unlicensed wholesale drug distributor, the licensed wholesale drug distributor shall:

(1) request that the board obtain and consider the results of a national criminal history background check (as defined in IC 10-13-3-12) through the state police department of all individuals associated with the unlicensed wholesale drug distributor as specified for licensure of a wholesale drug distributor under section 16(b) of this chapter; and

(2) verify the unlicensed wholesale drug distributor's status as an authorized distributor, if applicable.

(d) If an unlicensed wholesale drug distributor's facility has not been inspected by the board or the board's agent within three (3) years after a contemplated purchase described in subsection (a), the licensed wholesale drug distributor shall conduct an inspection of the unlicensed wholesale drug distributor's facility:

(1) before the initial purchase of legend drugs from the unlicensed wholesale drug distributor; and

(2) at least once every three (3) years unless the unlicensed wholesale drug distributor's facility has been inspected by the board, or the board's agent, during the same period;

to ensure compliance with applicable laws and regulations relating to the storage and handling of legend drugs. A third party may be engaged to conduct the site inspection on behalf of the licensed wholesale drug distributor.

(e) At least annually, a licensed wholesale drug distributor that purchases legend drugs from an unlicensed wholesale drug distributor shall ensure that the unlicensed wholesale drug distributor maintains a record keeping system that meets the requirements of section 17(3) of this chapter.

(f) If a licensed wholesale drug distributor that purchases legend drugs from an unlicensed wholesale drug distributor has reason to believe that a legend drug purchased from the unlicensed wholesale drug distributor is misbranded, adulterated, counterfeit, or suspected counterfeit, the licensed wholesale drug distributor shall conduct a for cause authentication of each distribution of the legend drug back to the manufacturer.

(g) An unlicensed wholesale drug distributor that has engaged in the distribution of a legend drug for which a licensed wholesale drug distributor conducts a for cause authentication under

subsection (f) shall provide, upon request, detailed information regarding the distribution of the legend drug, including the:

- (1) date of purchase of the legend drug;
- (2) lot number of the legend drug;
- (3) sales invoice number of the legend drug; and
- (4) contact information, including name, address, telephone number, and any electronic mail address of the unlicensed wholesale drug distributor that sold the legend drug.

(h) If a licensed wholesale drug distributor conducts a for cause authentication under subsection (f) and is unable to authenticate each distribution of the legend drug, the licensed wholesale drug distributor shall quarantine the legend drug and report the circumstances to the board and the federal Food and Drug Administration within ten (10) business days after completing the attempted authentication.

(i) If a licensed wholesale drug distributor authenticates the distribution of a legend drug back to the manufacturer under subsection (f), the licensed wholesale drug distributor shall maintain records of the authentication for three (3) years and shall provide the records to the board upon request.

(j) A licensed wholesale drug distributor that purchases legend drugs from an unlicensed wholesale drug distributor shall, at least annually, conduct random authentications of required pedigrees on at least ten percent (10%) of sales units of distributions of legend drugs that were purchased from unlicensed wholesale drug distributors.

(k) A licensed wholesale drug distributor that has purchased a legend drug that is on the specified list of susceptible products shall, at least quarterly, conduct random authentications of required pedigrees on at least ninety percent (90%) of sales units of distributions of legend drugs that:

- (1) are on the specified list of susceptible products; and
- (2) were purchased from unlicensed wholesale drug distributors.

(l) An unlicensed wholesale drug distributor from which a licensed wholesale drug distributor has purchased legend drugs shall cooperate with the random authentications of pedigrees under this section and provide requested information in a timely manner.

(m) If a wholesale drug distributor conducts a random authentication under subsection (j) or (k) and is unable to authenticate each distribution of the legend drug, the wholesale drug distributor shall quarantine the legend drug and report the circumstances to the board and the federal Food and Drug Administration not more than ten (10) business days after completing the attempted authentication.

SECTION 52. IC 25-26-14-17.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17.9. A wholesale drug distributor licensed under this chapter may not use a trade name or business name identical to a trade name or business name used by another wholesale drug distributor licensed under this chapter.

SECTION 53. IC 25-26-14-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) A person employed in wholesale distribution must have appropriate education or experience to assume responsibility for positions related to compliance with licensing requirements.

(b) Before employing a person to be engaged in the operation and handling of legend drugs, a wholesale drug distributor shall request that the board obtain and consider the results of a national criminal history background check (as defined in IC 10-13-3-12) through the state police department for the person.

SECTION 54. IC 25-26-14-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21.5. (a) A person may not perform, cause the performance of, or aid the performance of the following:

- (1) The manufacture, repackaging, sale, delivery, holding, or offering for sale of a legend drug that is adulterated, misbranded, counterfeit, suspected counterfeit, or is otherwise unfit for distribution.
- (2) The adulteration, misbranding, or counterfeiting of a

legend drug.

(3) The receipt of a legend drug that is adulterated, misbranded, stolen, obtained by fraud or deceit, counterfeit, or suspected counterfeit, and the delivery or proffered delivery of the legend drug for pay or otherwise.

(4) The alteration, mutilation, destruction, obliteration, or removal of the whole or a part of the labeling of a legend drug or the commission of another act with respect to a legend drug that results in the legend drug being misbranded.

(5) Forging, counterfeiting, simulating, or falsely representing a legend drug using a mark, stamp, tag, label, or other identification device without the authorization of the manufacturer.

(6) The purchase or receipt of a legend drug from a person that is not licensed to distribute legend drugs to the purchaser or recipient.

(7) The sale or transfer of a legend drug to a person that is not authorized under the law of the jurisdiction in which the person receives the legend drug to purchase or receive legend drugs from the person selling or transferring the legend drug.

(8) Failure to maintain or provide records as required under this chapter.

(9) Providing the board, a representative of the board, or a state or federal official with false or fraudulent records or making false or fraudulent statements regarding a matter related to this chapter.

(10) The wholesale distribution of a legend drug that was:

- (A) purchased by a public or private hospital or other health care entity;
- (B) donated or supplied at a reduced price to a charitable organization; or
- (C) stolen or obtained by fraud or deceit.

(11) Obtaining or attempting to obtain a legend drug by fraud, deceit, misrepresentation, or engaging in fraud, deceit, or misrepresentation in the distribution of a legend drug.

(12) Failure to obtain, authenticate, or provide a required pedigree.

(13) The receipt of a legend drug through wholesale distribution without first receiving a required pedigree attested to as accurate and complete by the wholesale drug distributor.

(14) Distributing a legend drug that was previously dispensed by a retail pharmacy or distributed by a practitioner.

(15) Failure to report an act prohibited by this section.

(b) The board may impose the following sanctions if, after a hearing under IC 4-21.5-3, the board finds that a person has violated subsection (a):

(1) Revoke the wholesale drug distributor's license issued under this chapter if the person is a wholesale drug distributor.

(2) Assess a civil penalty against the person. A civil penalty assessed under this subdivision may not be more than ten thousand dollars (\$10,000) per violation.

SECTION 55. IC 25-26-14-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) A person ~~that~~ who knowingly or intentionally engages in the wholesale distribution of a legend drug without a license issued under this chapter commits a Class D felony.

(b) A person who engages in the wholesale distribution of a legend drug and:

- (1) who, with intent to defraud or deceive:
 - (A) fails to obtain or deliver to another person a complete and accurate required pedigree concerning a legend drug before:
 - (i) obtaining the legend drug from another person; or
 - (ii) transferring the legend drug to another person; or
 - (B) falsely swears or certifies that the person has authenticated any documents related to the wholesale distribution of legend drugs;
- (2) who knowingly or intentionally:

- (A) destroys, alters, conceals, or fails to maintain a complete and accurate required pedigree concerning a legend drug in the person's possession;
- (B) purchases or receives legend drugs from a person not authorized to distribute legend drugs in wholesale distribution;
- (C) sells, barter, brokers, or transfers a legend drug to a person not authorized to purchase the legend drug in the jurisdiction in which the person receives the legend drug in a wholesale distribution;
- (D) forges, counterfeits, or falsely creates a pedigree;
- (E) falsely represents a factual matter contained in a pedigree; or
- (F) fails to record material information required to be recorded in a pedigree; or

(3) who:

- (A) possesses a required pedigree concerning a legend drug;
- (B) knowingly or intentionally fails to authenticate the matters contained in the pedigree as required; and
- (C) distributes or attempts to further distribute the legend drug;

commits a Class D felony.

SECTION 56. IC 25-26-14-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. A wholesale drug distributor that fails to comply with the conditions and requirements described in section 17, **17.2, 17.3, 17.8, 17.9, or 20** of this chapter commits a Class D felony."

Page 18, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 60. IC 34-24-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The following may be seized:

- (1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

- (A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

- (i) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
- (ii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (iii) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (iv) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (v) Dealing in a counterfeit substance (IC 35-48-4-5).
- (vi) Possession of cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-6).
- (vii) Dealing in paraphernalia (IC 35-48-4-8.5).
- (viii) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

- (B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars (\$100) or more.

- (C) Any hazardous waste in violation of IC 13-30-6-6.

- (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1-26.5).

- (2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

- (A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

- (B) used to facilitate any violation of a criminal statute; or
- (C) traceable as proceeds of the violation of a criminal statute.

- (3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

- (4) A vehicle that is used by a person to:

- (A) commit, attempt to commit, or conspire to commit;
- (B) facilitate the commission of; or
- (C) escape from the commission of;

murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

- (5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:

- (A) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
- (B) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (C) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

- (6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(11).

- (7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

- (8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

- (9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

- (10) Any equipment used or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4-4.

- (11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

- (12) Cigarettes that are sold in violation of IC 24-3-5.2, cigarettes that a person attempts to sell in violation of IC 24-3-5.2, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.2.

- (13) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

- (14) If a person is convicted of an offense specified in IC 25-26-14-26(b) or IC 35-43-10, the following real or personal property:**

- (A) Property used or intended to be used to commit, facilitate, or promote the commission of the offense.**

- (B) Property constituting, derived from, or traceable to the gross proceeds that the person obtained directly or indirectly as a result of the offense.**

- (b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

- (c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

- (d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money,

negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

- (1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine).
- (2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).
- (3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
- (4) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.
- (5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or methamphetamine) as a Class A felony, Class B felony, or Class C felony.
- (6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

SECTION 61. IC 35-43-10 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 10. Legend Drug Deception

Sec. 1. The definitions in IC 25-26-14 apply throughout this chapter.

Sec. 2. A person who knowingly or intentionally:

- (1) possesses a contraband legend drug;
- (2) sells, delivers, or possesses with intent to sell or deliver a contraband legend drug;
- (3) forges, counterfeits, or falsely creates a label for a legend drug or falsely represents a factual matter contained on a label of a legend drug; or
- (4) manufactures, purchases, sells, delivers, brings into Indiana, or possesses a contraband legend drug;

commits legend drug deception, a Class D felony.

Sec. 3. A person:

- (1) who knowingly or intentionally manufactures, purchases, sells, delivers, brings into Indiana, or possesses a contraband legend drug; and
- (2) whose act under subdivision (1) results in the death of an individual;

commits legend drug deception resulting in death, a Class A felony."

Page 18, after line 42, begin a new paragraph and insert:

"SECTION 63. IC 35-48-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. As used in this chapter, "identification number" refers to **the following**:

- (1) The unique number contained on any of the following:
 - (A) A valid driver's license of a recipient or a recipient's representative issued under Indiana law or the law of any other state.
 - (B) A recipient's or a recipient representative's valid military identification card.
 - (C) A valid identification card of a recipient or a recipient's representative issued by:
 - (i) the bureau of motor vehicles and described in IC 9-24-16-3; or
 - (ii) any other state and that is similar to the identification card issued by the bureau of motor vehicles.
 - (D) If the recipient is an animal:
 - (i) the valid driver's license issued under Indiana law or the law of any other state;
 - (ii) the valid military identification card; or
 - (iii) the valid identification card issued by the bureau of motor vehicles and described in IC 9-24-16-3 or a valid identification card of similar description that is issued by any other state;

of the animal's owner.

(2) The identification number or phrase designated by the central repository.

SECTION 64. IC 35-48-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The advisory committee shall provide for a controlled substance prescription monitoring program that includes the following components:

- (1) Each time a controlled substance designated by the advisory

committee under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the central repository the following information:

- (A) The recipient's name.
- (B) The recipient's or the recipient representative's identification number **or the identification number or phrase designated by the central repository.**
- (C) The recipient's date of birth.
- (D) The national drug code number of the controlled substance dispensed.
- (E) The date the controlled substance is dispensed.
- (F) The quantity of the controlled substance dispensed.
- (G) The number of days of supply dispensed.
- (H) The dispenser's United States Drug Enforcement Agency registration number.
- (I) The prescriber's United States Drug Enforcement Agency registration number.
- (J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(2) The information required to be transmitted under this section must be transmitted not more than fifteen (15) days after the date on which a controlled substance is dispensed.

(3) A dispenser shall transmit the information required under this section by:

- (A) an electronic device compatible with the receiving device of the central repository;
- (B) a computer diskette;
- (C) a magnetic tape; or
- (D) a pharmacy universal claim form;

that meets specifications prescribed by the advisory committee.

(4) The advisory committee may require that prescriptions for controlled substances be written on a one (1) part form that cannot be duplicated. However, the advisory committee may not apply such a requirement to prescriptions filled at a pharmacy with a Type II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The committee may not require multiple copy prescription forms and serially numbered prescription forms for any prescriptions written. The committee may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be jointly approved by the committee and by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

SECTION 65. [EFFECTIVE JULY 1, 2005] (a) IC 25-26-14, as amended by this act, applies:

- (1) after June 30, 2005, for an initial license issued under IC 25-26-14, as amended by this act; and
- (2) on the first expiration date occurring after December 31, 2005, for renewal of a license issued under IC 25-26-14, before amendment by this act.

(b) The Indiana board of pharmacy established by IC 25-26-13-3 may establish an electronic pedigree pilot program to authenticate, track, and trace legend drugs. The pilot program must include participation of drug manufacturers, wholesale drug distributors, and pharmacies that are licensed in Indiana. The board may establish the requirements and guidelines for the pilot program.

(c) Before June 30, 2007, the Indiana board of pharmacy established by IC 25-26-13-3 shall conduct a study of the electronic pedigree pilot program. The study must include consultation with manufacturers, distributors, and pharmacies that participate in the electronic pedigree pilot program. The study may include the consultation with manufacturers, distributors, and pharmacies that do not participate in the electronic pedigree pilot program. Based on the results of the study, the board shall determine a date to implement a mandatory electronic pedigree program. However, the board may not implement a mandatory electronic pedigree program until after the board has completed the study under this subsection.

(d) This SECTION expires December 31, 2007."

Renumber all SECTIONS consecutively.

(Reference is to SB 590 as reprinted February 11, 2005.)
and when so amended that said bill do pass.

Committee Vote: yeas 10, nays 0.

BECKER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Engrossed Senate Bill 615, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 22, delete "long term care" and insert "**home and community based**".

Page 4, line 27, delete "long term care" and insert "**home and community based**".

Page 4, line 40, after "(1)" insert "**date and**".

Page 7, between lines 28 and 29, begin a new paragraph and insert:
"SECTION 9. [EFFECTIVE JULY 1, 2005] (a) **Before July 1, 2006, the office of Medicaid policy and planning shall adopt rules under IC 4-22-2 that define the criteria and process used by the office of Medicaid policy and planning to determine if a developmentally disabled individual (as defined in IC 12-7-2-62) qualifies for the level of care provided by an intermediate care facility for the mentally retarded (ICF/MR). The rules must provide that a developmentally disabled individual (as defined in IC 12-7-2-62) qualifies for the level of care for an intermediate care facility for the mentally retarded (ICF/MR) if the individual's disability results in substantial functional limitations in at least three (3) of the following areas of major life activities:**

- (1) Self-care.
- (2) Understanding and use of language.
- (3) Learning.
- (4) Mobility.
- (5) Self-direction.
- (6) Capacity for independent living.

(b) **Before July 1, 2006, the office of Medicaid policy and planning shall adopt rules under IC 4-22-2 that define the criteria and process used by the office of Medicaid policy and planning to determine the number of hours of care that a developmentally disabled individual (as defined in IC 12-7-2-62) needs in a supervised group living setting. The rules must provide that a developmentally disabled individual (as defined in IC 12-7-2-62) in the following types of supervised group living settings needs the following hours of care per resident day:**

- (1) Intensive training, six (6) hours.
- (2) Developmental training, eight (8) hours.
- (3) Basic development, ten (10) hours.
- (4) Medically fragile, twelve (12) hours.
- (5) Child rearing, eight (8) hours.
- (6) Child rearing with specialized programs, ten (10) hours.
- (7) Small residence with behavior management for children, twelve (12) hours.

(c) **Before July 1, 2006, the office of Medicaid policy and planning shall adopt rules under IC 4-22-2 to amend the requirements under 405 IAC to require that the supported living program and reimbursement system contain the following components:**

- (1) **Conduct of an independent assessment to determine the level of resources necessary to meet the needs of a developmentally disabled individual (as defined in IC 12-7-2-62) in a healthy and safe environment.**
- (2) **Determination of the level of resources that are needed by a developmentally disabled individual (as defined in IC 12-7-2-62) using a funding matrix that differentiates between needs and service requirements for developmentally disabled individuals:**

(A) **with family or other nonpaid supports; and**

(B) **without family or other nonpaid supports.**

- (3) **Requirement that individual support teams assist developmentally disabled individuals (as defined in IC 12-7-2-62) in developing and implementing**

individualized plans after resources have been allocated.

(d) This SECTION expires July 1, 2007.

SECTION 10. [EFFECTIVE JULY 1, 2005] (a) **Before July 1, 2006, the division of disability, aging, and rehabilitative services shall adopt rules under IC 4-22-2 to amend 460 IAC 6 to provide that 460 IAC 6 does not apply to an agency that is accredited by one (1) of the following organizations:**

(1) The Commission on Accreditation of Rehabilitation Facilities (CARF) or its successor.

(2) The Council on Quality and Leadership in Supports for People with Disabilities or its successor.

(3) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or its successor.

(4) The National Commission on Quality Assurance or its successor.

(5) An independent national accreditation organization approved by the secretary.

(b) This SECTION expires July 1, 2007."

Renumber all SECTIONS consecutively.

(Reference is to SB 615 as printed February 4, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

BECKER, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Engrossed Senate Bill 634, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender the policyholder's insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by

a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or

policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or insurance producer thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed insurance producer thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, an insurance producer, or a solicitor duly licensed under the laws of this state, but such broker, insurance producer, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance producer or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of the lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of insurance producers or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a

chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, insurance producer, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

(26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or IC 27-8-5-19.2.

(27) Violating IC 27-2-21 concerning use of credit information.

(28) Violating IC 27-4-9-3 concerning recommendations to senior consumers.

SECTION 2. IC 27-4-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 9. Recommendations to Senior Consumers

Sec. 1. As used in this chapter, "securities commissioner" refers to the commissioner appointed by the secretary of state under IC 23-2-1-15.

Sec. 2. As used in this chapter, "senior consumer" means an individual who is at least sixty-five (65) years of age.

Sec. 3. (a) An insurance producer, or an insurer in a case in which an insurance producer is not involved, shall not recommend to a senior consumer the:

(1) purchase of an annuity; or

(2) exchange of an annuity that results in another insurance transaction;

that is unsuitable for the senior consumer.

(b) A determination regarding whether a purchase or an exchange under subsection (a) is unsuitable for a senior consumer must be made:

(1) based on the facts disclosed by the senior consumer concerning the senior consumer's:

(A) investments and other insurance products; and

(B) financial situation and needs; and

(2) according to the rule adopted under section 4 of this chapter.

Sec. 4. The department shall adopt a rule under IC 4-22-2 to establish a method for making determinations as to whether a purchase or an exchange described in section 3 of this chapter is unsuitable for a senior consumer.

Sec. 5. (a) Except as provided in subsection (b), a recommendation made in violation of section 3 of this chapter is an unfair method of competition or an unfair and deceptive act or practice under IC 27-4-1-4.

(b) A recommendation made in violation of section 3 of this chapter is not an unfair method of competition or an unfair and deceptive act or practice under IC 27-4-1-4 if the recommendation is made in compliance with the National Association of Securities Dealers Conduct Rules concerning suitability, as determined by the commissioner.

Sec. 6. (a) The commissioner may conduct an investigation, pursue an enforcement action, and take other official action that the commissioner considers appropriate to ensure compliance with section 3 of this chapter.

(b) With regard to a variable annuity, the commissioner may:

(1) consult with the securities commissioner; and

(2) use the resources of the securities commissioner;

in making a final determination regarding any issue concerning compliance with section 3 of this chapter.

(c) If the securities commissioner is informed of a violation or suspected violation of section 3 of this chapter or other insurance laws of the state, the securities commissioner shall timely advise the commissioner of the violation or suspected violation."

Page 2, line 19, delete "mean" and insert "means".

Page 4, line 12, after "exclusively" insert ",".

Page 4, line 39, delete "," and insert "and".

Renumber all SECTIONS consecutively.

(Reference is to SB 634 as printed February 15, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 11, nays 0.

RIPLEY, Chair

Report adopted.

Representatives Aguilera, Hoffman, Mays, and Welch were excused for the rest of the day.

ENGROSSED SENATE BILLS ON SECOND READING

Engrossed Senate Bill 483

Representative T. Brown called down Engrossed Senate Bill 483 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 483-12)

Mr. Speaker: I move that Engrossed Senate Bill 483 be amended to read as follows:

Page 12, line 3, after "Sec. 10." insert "(a)".

Page 12, line 10, delete "card." and insert "**card to an individual described in subsection (b).**"

(b) An identification card must be issued without the payment of a fee or charge to an individual who:

(1) does not have a valid Indiana driver's license; and

(2) will be at least eighteen (18) years of age at the next general, municipal, or special election."

Page 12, delete lines 11 through 42.

Page 13, delete lines 1 through 42, begin a new paragraph and insert:

"SECTION 16. IC 9-29-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) **Except as provided in IC 9-24-16-10**, the service charge for an identification card issued under IC 9-24 is fifty cents (\$0.50) and one-half (½) of each fee collected as set forth in IC 9-29-9-15.

(b) Fifty cents (\$0.50) of each service charge collected under subsection (a) shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

SECTION 17. IC 9-29-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. **Except as provided in IC 9-24-16-10**, the fees for the issuance, renewal, or duplication of identification cards under IC 9-24-16 are as follows:

(1) For a person at least sixty-five (65) years of age or a person with a physical disability and not entitled to obtain a driving license, two dollars (\$2).

(2) For any other eligible person, four dollars (\$4)."

Page 14 delete lines 1 through 10.

Page 14, line 17, delete "card." and insert "**card to an individual described in subsection (b).**"

(b) An identification card must be issued without the payment of a fee or charge to an individual who:

(1) does not have a valid Indiana driver's license; and

(2) will be at least eighteen (18) years of age at the next general, municipal, or special election."

Page 14, delete lines 18 through 20, begin a new paragraph and insert:

"(c) Before January 1, 2006, the bureau of motor vehicles shall amend 140 IAC 8-3-20 to remove all fees and charges imposed for the issuance of an identification card to an individual described in subsection (b).

(d) This SECTION expires January 1, 2006."

Renumber all SECTIONS consecutively.

(Reference is to ESB 483 as printed March 15, 2005.)

THOMAS

Motion prevailed.

HOUSE MOTION (Amendment 483-3)

Mr. Speaker: I move that Engrossed Senate Bill 483 be amended to read as follows:

Page 1, line 11, after "document" delete ":".

Page 1, line 12, delete "(A)".

Page 1, line 12, delete "; or" and insert ".".

Page 1, run in lines 11 through 12.

Page 1, delete lines 13 through 14.

Page 2, line 2, delete "subsection (e)," and insert "**subsections (d) and (f),"**

Page 2, line 5, delete "subsection (e)," and insert "**subsections (d) and (f),"**

Page 2, delete lines 18 through 21, begin a new paragraph and insert:

"(d) If a voter:

(1) signs the poll list; and

(2) executes, under penalties of perjury, an affidavit prescribed by the commission swearing or affirming that the voter is the individual whose name appears on the poll list;

the voter is entitled to vote.

(e) The affidavit under subsection (d)(2) must include a statement describing the criminal penalties that may be imposed for a conviction for perjury."

Page 2, line 22, delete "(e)" and insert "(f)".

Page 2, line 28, delete "subsection (e)," and insert "**subsections (d) and (f),"**

Page 2, line 30, delete "subsection (e)," and insert "**subsections (d) and (f),"**

Page 3, delete lines 1 through 4, begin a new paragraph and insert:

"(d) If a voter:

(1) signs the poll list; and

(2) executes, under penalties of perjury, an affidavit prescribed by the commission swearing or affirming that the voter is the individual whose name appears on the poll list;

the voter is entitled to vote.

(e) The affidavit under subsection (d)(2) must include a statement describing the criminal penalties that may be imposed for a conviction for perjury."

Page 3, line 5, delete "(e)" and insert "(f)".

Page 3, line 9, delete "(f)" and insert "(g)".

Page 3, line 18, delete "(g)" and insert "(h)".

Page 3, line 26, delete "(h)" and insert "(i)".

Page 3, line 36, delete "(i)" and insert "(j)".

Page 3, line 37, delete "(i)" and insert "(j)".

Page 4, line 5, delete "(j)" and insert "(k)".

Page 4, line 6, delete "(i)," and insert "(j),".

Page 4, line 11, delete "(k)" and insert "(l)".

Page 4, line 12, delete "(i)" and insert "(j)".

Page 4, line 16, delete "(l)" and insert "(m)".

Page 4, line 20, delete "(m)" and insert "(n)".

Page 4, line 34, delete "(n)" and insert "(m)".

Page 4, line 34, delete "(m):" and insert "(n):".

Page 4, line 40, delete "(o)" and insert "(p)".

Page 5, line 2, delete "subsection (f)," and insert "**subsections (e) and (g),"**

Page 5, line 5, delete "subsection (f)," and insert "**subsections (e) and (g),"**

Page 5, delete lines 18 through 21, begin a new paragraph and insert:

"(e) If a voter:

(1) signs the poll list; and

(2) executes, under penalties of perjury, an affidavit prescribed by the commission swearing or affirming that the voter is the individual whose name appears on the poll list;

the voter is entitled to vote.

(f) The affidavit under subsection (e)(2) must include a statement describing the criminal penalties that may be imposed for a conviction for perjury."

Page 5, line 22, delete "(f)" and insert "(g)".

Page 5, line 26, delete "(g)" and insert "(h)".

Page 5, line 34, delete "(l)," and insert "(m),".

Page 5, line 36, delete "(h)" and insert "(i)".

Page 6, line 2, delete "(i)" and insert "(j)".

Page 6, line 5, delete "(j)" and insert "(k)".

Page 6, line 13, delete "(k)" and insert "(l)".

Page 6, line 13, delete "(h):" and insert "(i):".

Page 6, line 19, delete "(l)" and insert "(m)".

Page 7, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 8. IC 3-11-8-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 34. The precinct election board shall seal all affidavits executed under IC 3-10-1-7.2(d), IC 3-11-8-25(d), and IC 3-11-8-25.1(e). The inspector shall return the affidavits to the circuit court clerk after the close of the**

polls."

Page 7, line 34, after "1.2." insert "(a)".

Page 7, line 35, after "when" delete ":".

Page 7, line 36, delete "(1)".

Page 7, run in lines 35 through 36.

Page 7, line 37, delete "; or" and insert ".".

Page 7, delete line 38, begin a new paragraph and insert:

"(b) An absentee voter is required to provide proof of identification or execute an affidavit under IC 3-10-1-7.2(d), IC 3-11-8-25(d), or IC 3-11-8-25.1(e) when voting before the absentee voter board or the absentee voter board in the office of the circuit court clerk."

Page 8, line 6, after "voter" insert "described in section 1.2(a) of this chapter".

Page 8, line 7, after "identification." insert "An absentee voter described in section 1.2(b) of this chapter is required to provide proof of identification or execute an affidavit under IC 3-10-1-7.2(d), IC 3-11-8-25(d), or IC 3-11-8-25.1(e)."

Page 8, line 20, after "voter" insert "described in IC 3-11-10.1.2(a)".

Page 8, line 21, after "identification." insert "An absentee voter described in IC 3-11-10.1.2(b) is required to provide proof of identification or execute an affidavit under IC 3-10-1-7.2(d), IC 3-11-8-25(d), or IC 3-11-8-25.1(e)."

Page 8, delete lines 36 through 39.

Page 10, delete lines 4 through 42.

Delete page 11.

Page 12, delete line 1.

Renumber all SECTIONS consecutively.

(Reference is to ESB 483 as printed March 15, 2005.)

MAHERN

Upon request of Representatives Mahern and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 248: yeas 44, nays 48. Motion failed.

HOUSE MOTION (Amendment 483-7)

Mr. Speaker: I move that Engrossed Senate Bill 483 be amended to read as follows:

Page 2, line 2, after "(a)" insert "A county may provide for proof of identification at a primary election under this section by the adoption of an ordinance by:

(1) the county executive, for a county not having a consolidated city; or

(2) the city-county council, for a county having a consolidated city.

(b)".

Page 2, line 2, delete "(e)," and insert "(f)".

Page 2, line 5, delete "(b)" and insert "(c)".

Page 2, line 5, delete "(e)," and insert "(f)".

Page 2, line 10, delete "(c)" and insert "(d)".

Page 2, line 18, delete "(d)" and insert "(e)".

Page 2, line 22, delete "(e)" and insert "(f)".

Page 2, line 27, delete "Except as".

Page 2, delete lines 28 through 42.

Page 3, delete lines 1 through 8.

Page 3, line 9, delete "(f)".

Page 2, run in line 27 through page 3, line 9.

Page 3, line 10, reset in roman "admitted to the polls. Upon entering the polls, the".

Page 3, delete line 11.

Page 3, line 12, delete "to the location where the poll clerks are stationed. The".

Page 3, run in lines 10 through 12.

Page 3, line 13, delete "A" and insert "If the county has provided for proof of identification under section 25.3 of this chapter, a".

Page 3, line 15, strike "require" and insert "follow the procedure under section 25.3 of this chapter before requiring".

Page 3, line 18, reset in roman "(b)".

Page 3, line 18, delete "(g)".

Page 3, line 26, reset in roman "(c)".

Page 3, line 26, delete "(h)".

Page 3, line 34, after "to" delete "the" and insert "any".

Page 3, line 35, delete "subsection (b)," and insert "section 25.3 of this chapter,".

Page 3, line 36, reset in roman "(d)".

Page 3, line 36, delete "(i)".

Page 3, line 37, reset in roman "(d)".

Page 3, line 37, delete "(i)".

Page 3, line 38, delete "the" and insert "any".

Page 3, line 39, delete "subsection (b)," and insert "section 25.3 of this chapter,".

Page 4, line 5, reset in roman "(e)".

Page 4, line 5, delete "(j)".

Page 4, line 6, reset in roman "(d)".

Page 4, line 6, delete "(i)".

Page 4, line 11, reset in roman "(f)".

Page 4, line 11, delete "(k)".

Page 4, line 12, reset in roman "(d)".

Page 4, line 12, delete "(i)".

Page 4, line 16, reset in roman "(g)".

Page 4, line 16, delete "(l)".

Page 4, line 20, reset in roman "(h)".

Page 4, line 20, delete "(m)".

Page 4, line 34, reset in roman "(i)".

Page 4, line 34, delete "(n)".

Page 4, line 34, reset in roman "(h):".

Page 4, line 34, delete "(m):".

Page 4, line 40, reset in roman "(j)".

Page 4, line 40, delete "(o)".

Page 5, delete lines 2 through 25.

Page 5, line 26, reset in roman "(b)".

Page 5, line 26, delete "(g)".

Page 5, line 27, reset in roman "admitted to the polls. Upon entering the polls, the".

Page 5, delete line 28.

Page 5, line 29, delete "to the location where the poll clerks are stationed. The".

Page 5, run in lines 27 through 29.

Page 5, line 30, delete "A" and insert "If the county has provided for proof of identification under section 25.3 of this chapter, a".

Page 5, line 32, strike "require" and insert "follow the procedure under section 25.3 of this chapter before requiring".

Page 5, line 34, reset in roman "(f)".

Page 5, line 34, delete "(l)".

Page 5, line 36, reset in roman "(c)".

Page 5, line 36, delete "(h)".

Page 6, delete lines 2 through 4.

Page 6, line 5, reset in roman "(d)".

Page 6, line 5, delete "(j)".

Page 6, line 13, reset in roman "(e)".

Page 6, line 13, delete "(k)".

Page 6, line 13, reset in roman "(c):".

Page 6, line 13, delete "(h):".

Page 6, line 19, reset in roman "(f)".

Page 6, line 19, delete "(l)".

Page 6, line 34, after "to" delete "the" and insert "any".

Page 6, line 35, delete "25.1(b)" and insert "25.3".

Page 6, line 38, delete "25.1(b)" and insert "25.3".

Page 7, between lines 15 and 16, begin a new paragraph and insert:
"SECTION 6. IC 3-11-8-25.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 25.3. (a) This section applies to a county that has adopted an ordinance to provide for proof of identification under IC 3-10-1-7.2.**

(b) Except as provided in subsection (f), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(c) Except as provided in subsection (f), before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(d) If:

(1) the voter is unable or declines to present the proof of identification; or
 (2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;
 a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(e) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may:

- (1) sign the poll list; and
- (2) receive a provisional ballot.

(f) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in an election."

Page 10, line 6, after "(a)" insert "This section applies to a county that has adopted an ordinance to provide for proof of identification under IC 3-10-1-7.2 and IC 3-11-8-25.3.

(b)".

Page 10, line 7, delete "under IC 3-10-1 or IC 3-11-8".

Page 10, line 15, delete "(b)" and insert "(c)".

Page 10, line 15, delete "(c)" and insert "(d)".

Page 10, line 15, delete "(e)," and insert "(f)".

Page 10, line 28, delete "(c)" and insert "(d)".

Page 11, line 3, delete "(d)" and insert "(e)".

Page 11, line 4, delete "(c)" and insert "(d)".

Page 11, line 11, delete "(e)" and insert "(f)".

Page 11, line 12 delete "(b)" and insert "(c)".

Page 11, line 12, delete "(c)" and insert "(d)".

Page 11, line 21, delete "(f)" and insert "(g)".

Page 11, line 21, delete "(a)" and insert "(b)".

Page 11, line 22, delete "(a)" and insert "(b)".

Page 11, line 25, delete "(b)" and insert "(c)".

Page 11, line 25, delete "(c)," and insert "(d);".

Renumber all SECTIONS consecutively.

(Reference is to ESB 483 as printed March 15, 2005.)

DENBO

Upon request of Representatives Denbo and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 249: yeas 44, nays 48. Motion failed.

HOUSE MOTION (Amendment 483-11)

Mr. Speaker: I move that Engrossed Senate Bill 483 be amended to read as follows:

Page 2, line 2, delete "(e)," and insert "(f)".

Page 2, line 5, delete "(e)," and insert "(f)".

Page 2, between lines 21 and 22, begin a new paragraph and insert:

"(e) A member of the precinct election board shall provide a document that includes the following information to a voter who receives a provisional ballot under subsection (d)(2):

- (1) The documents that constitute proof of identification under IC 3-5-2-40.5.
- (2) The requirements for having the voter's provisional ballot counted under IC 3-11.7-5-2.5.
- (3) Contact information for the office of the circuit court clerk in the voter's county.
- (4) Contact information for the voter's state senator and state representative.
- (5) Information about the toll-free telephone number staffed by the election division under IC 3-11.7-6-4(b), including information on the dates and the hours of operation.
- (6) Information about the web site established by the election division under IC 3-11.7-6-4(a), including the address for the web site and the period during which the web site is accessible.

The document described in this subsection shall be provided on a form prescribed by the election division."

Page 2, line 22, delete "(e)" and insert "(f)".

Page 2, line 28, delete "(e)," and insert "(f)".

Page 2, line 30, delete "(e)," and insert "(f)".

Page 3, between lines 4 and 5, begin a new paragraph and insert:

"(e) A member of the precinct election board shall provide a

document that includes the following information to a voter who receives a provisional ballot under subsection (d)(2):

- (1) The documents that constitute proof of identification under IC 3-5-2-40.5.
- (2) The requirements for having the voter's provisional ballot counted under IC 3-11.7-5-2.5.
- (3) Contact information for the office of the circuit court clerk of the voter's county.
- (4) Contact information for the voter's state senator and state representative.
- (5) Information about the toll-free telephone number staffed by the election division under IC 3-11.7-6-4(b), including information on the dates and the hours of operation.
- (6) Information about the web site established by the election division under IC 3-11.7-6-4(a), including the address for the web site and the period during which the web site is accessible.

The document described in this subsection shall be provided on a form prescribed by the election division."

Page 3, line 5, delete "(e)" and insert "(f)".

Page 3, line 9, delete "(f)" and insert "(g)".

Page 3, line 18, delete "(g)" and insert "(h)".

Page 3, line 26, delete "(h)" and insert "(i)".

Page 3, line 36, delete "(i)" and insert "(j)".

Page 3, line 37, delete "(i)" and insert "(j)".

Page 4, line 5, delete "(j)" and insert "(k)".

Page 4, line 6, delete "(i)," and insert "(j)".

Page 4, line 11, delete "(k)" and insert "(l)".

Page 4, line 12, delete "(i)" and insert "(j)".

Page 4, line 16, delete "(l)" and insert "(m)".

Page 4, line 20, delete "(m)" and insert "(n)".

Page 4, line 34, delete "(n)" and insert "(o)".

Page 4, line 34, delete "(m):" and insert "(n):".

Page 4, line 40, delete "(o)" and insert "(p)".

Page 5, line 2, delete "(f)," and insert "(g)".

Page 5, line 5, delete "(f)," and insert "(g)".

Page 5, between lines 21 and 22, begin a new paragraph and insert:

"(f) A member of the precinct election board shall provide a document that includes the following information to a voter who receives a provisional ballot under subsection (e)(2):

- (1) The documents that constitute proof of identification under IC 3-5-2-40.5.
- (2) The requirements for having the voter's provisional ballot counted under IC 3-11.7-5-2.5.
- (3) Contact information for the office of the circuit court clerk of the voter's county.
- (4) Contact information for the voter's state senator and state representative.
- (5) Information about the toll-free telephone number staffed by the election division under IC 3-11.7-6-4(b), including information on the dates and the hours of operation.
- (6) Information about the web site established by the election division under IC 3-11.7-6-4(a), including the address for the web site and the period during which the web site is accessible.

The document described in this subsection shall be provided on a form prescribed by the election division."

Page 5, line 22, delete "(f)" and insert "(g)".

Page 5, line 26, delete "(g)" and insert "(h)".

Page 5, line 34, delete "(l)," and insert "(m)".

Page 5, line 36, delete "(h)" and insert "(i)".

Page 6, line 2, delete "(i)" and insert "(j)".

Page 6, line 5, delete "(j)" and insert "(k)".

Page 6, line 13, delete "(k)" and insert "(l)".

Page 6, line 13, delete "(h):" and insert "(i):".

Page 6, line 19, delete "(l)" and insert "(m)".

Page 12, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 15. IC 3-11.7-6-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The election division shall establish an information access system, including a toll-free telephone number and an Internet web site, that enables a voter who receives a provisional ballot under IC 3-10-1-7.2(d),

IC 3-11-8-2-25(d), or IC 3-11-8-2-25.1(e) to access information, free of charge, about the following:

- (1) The documents that constitute proof of identification under IC 3-5-2-40.5.
- (2) The requirements for having the voter's provisional ballot counted under IC 3-11-7-5-2.5.
- (3) Contact information for the office of the circuit court clerk of the voter's county.
- (4) Contact information for the voter's state senator and state representative.

(b) The election division shall staff the toll-free telephone number established under subsection (a) beginning at the hour set for the opening of the polls on the day of the election under IC 3-10-1 or IC 3-11-8 and ending at midnight on the Tuesday following the date of the election. During each day of the period described in this subsection, the election division shall provide live staffing for the toll-free telephone number for a minimum of fourteen (14) hours.

(c) The web site established under subsection (a) must:

- (1) be accessible; and
- (2) contain current information;

throughout the period beginning at the hour set for the opening of the polls on the day of the election under IC 3-10-1 or IC 3-11-8 and ending at midnight on the Tuesday following the date of the election. During each day of the period described in this subsection, the web site must be accessible on a twenty-four (24) hour basis.

(d) The information access system required by this section is in addition to the information required to be provided to a voter under IC 3-10-1-7.2(e), IC 3-11-8-2-25(e), or IC 3-11-8-2-25.1(f).

(e) The election division may adopt rules under IC 4-22-2 to implement this section."

Renumber all SECTIONS consecutively.

(Reference is to ESB 483 as printed March 15, 2005.)

PELATH

Upon request of Representatives Pelath and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 250: yeas 44, nays 48. Motion failed.

HOUSE MOTION (Amendment 483-2)

Mr. Speaker: I move that Engrossed Senate Bill 483 be amended to read as follows:

Page 1, between lines 16 and 17, begin a new paragraph and insert: "SECTION 2. IC 3-5-8-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. Not:

- (1) earlier than thirty (30) days; or
- (2) later than fifteen (15) days;

before each primary and general election, the co-directors of the election division appointed under IC 3-6-4.2-3 shall mail to each voter who registered to vote after the most recent primary or general election a mailing describing in detail the requirements of Indiana law for a voter to show proof of identification before being permitted to vote."

Page 14, after line 20, begin a new paragraph and insert:

"SECTION 22. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 3-5-8-6, as added by this act, not:

- (1) earlier than thirty (30) days; or
- (2) later than fifteen (15) days;

before the 2006 primary election and the 2006 general election, the co-directors of the election division appointed under IC 3-6-4.2-3 shall send to all registered voters a mailing describing in detail the requirements of Indiana law for a voter to show proof of identification before being permitted to vote.

(b) This SECTION expires January 1, 2007."

Renumber all SECTIONS consecutively.

(Reference is to ESB 483 as printed March 15, 2005.)

MAHERN

After discussion, Representative Mahern withdrew the motion to amend.

Representative Bottorff was excused for the rest of the day.

HOUSE MOTION (Amendment 483-8)

Mr. Speaker: I move that Engrossed Senate Bill 483 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-5-2-40.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 40.1. "Precinct election officer" means a person appointed to serve in a precinct as one (1) of the following:

- (1) Inspector.
- (2) Judge.
- (3) Proof of identification checker.
- ~~(3)~~ (4) Poll clerk.
- ~~(4)~~ (5) Assistant poll clerk.
- ~~(5)~~ (6) Election sheriff."

Page 1, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 3. IC 3-5-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as provided in subsection (d) and sections 7 through 10 of this chapter, the county auditor shall pay the expenses of voter registration and for all election supplies, equipment, and expenses out of the county treasury in the manner provided by law. The county fiscal body shall make the necessary appropriations for these purposes.

(b) The county executive shall pay to the circuit court clerk or board of registration the expenses of:

- (1) removing voters from the registration record under IC 3-7-43, IC 3-7-45, or IC 3-7-46; and
- (2) performing voter list maintenance programs under IC 3-7; out of the county treasury without appropriation.

(c) Registration expenses incurred by a circuit court clerk or board of registration for:

- (1) the salaries of members of a board of registration appointed under IC 3-7-12-9;
- (2) the salaries of chief clerks appointed under IC 3-7-12-17; and
- (3) the salaries of assistants employed under IC 3-7-12-19;

may not be charged to a municipality. However, the municipality may be charged for wages of extra persons employed to provide additional assistance reasonably related to the municipal election.

(d) For each proof of identification checker appointed under IC 3-6-6-1.5, the state must pay:

- (1) the cost of the training course required under IC 3-6-6-41; and
- (2) the compensation established under IC 3-6-6-25.

SECTION 4. IC 3-6-6-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) Each county election board shall appoint four (4) proof of identification checkers for each precinct in the county.

(b) The checkers appointed under subsection (a) are required to review and determine whether the proof of identification (as defined in IC 3-5-2-40.5) produced by each voter complies with IC 3-10-1-7.2, IC 3-11-8-25, or IC 3-11-8-25.1.

(c) Each county chairman of a major political party of the county is entitled to nominate two (2) proof of identification checkers under section 9 of this chapter.

(d) Each proof of identification checker must be a voter of the county.

SECTION 5. IC 3-6-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The county chairmen of the major political parties of a county may nominate individuals who meet the requirements of section 7 or 39 of this chapter for the following precinct election offices who will serve in the precinct on election day:

- (1) Judge.
- (2) Proof of identification checker.
- ~~(2)~~ (3) Poll clerk.
- ~~(3)~~ (4) Assistant poll clerk.
- ~~(4)~~ (5) Election sheriff.

SECTION 6. IC 3-6-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) This section does not apply to a vacancy in the office of election sheriff in a

precinct that is subject to a resolution adopted under section 5 of this chapter.

(b) If a precinct election officer fails to appear at the hour set for the opening of the polls, or if a precinct election office becomes vacant during election day, the remaining members of the precinct election board shall fill the vacancy upon the nomination of the highest ranking precinct election officer nominated by the county chairman of the same political party whose county chairman was entitled to nominate the holder of the office to be filled.

(c) If a county chairman fails to nominate the individual appointed to make a nomination to fill a vacant precinct election office under subsection (b), the individual appointed by the county election board to this precinct election office under section 13(b) of this chapter is entitled to make the nomination to fill the vacant precinct office under this section.

(d) For the purpose of these nominations, the rank of precinct election officers is as follows:

- (1) Inspector.
- (2) Judge.
- (3) Proof of identification checker.**
- ~~(3)~~ **(4) Poll clerk.**
- ~~(4)~~ **(5) Assistant poll clerk.**
- ~~(5)~~ **(6) Election sheriff.**

SECTION 7. IC 3-6-6-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. The oath prescribed for a precinct election officer must be signed before a person authorized to administer oaths and contain the following information:

I do solemnly swear (or affirm) the following:

- (1) I will support the Constitution of the United States and the Constitution of the State of Indiana.
- (2) I will faithfully and impartially discharge the duties of inspector (or judge, **proof of identification checker**, poll clerk, assistant poll clerk, or sheriff) of this precinct under the law.
- (3) I will not knowingly permit any person to vote who is not qualified and will not knowingly refuse the vote of any qualified voter or cause any delay to any person offering to vote other than is necessary to procure satisfactory information of the qualification of that person as a voter.
- (4) I am now a bona fide resident of the county in which the precinct in which I am to act as a member of the election board is situated and, if required by law, am a qualified voter of that county.
- (5) I will not disclose or communicate to any person how any voter has voted at this election or how any ballot has been folded or marked.
- (6) I am able to read, write, and speak the English language.
- (7) I have no property bet or wagered on the result of this election.
- (8) I am not a candidate to be voted for at this election in this precinct, except as an unopposed candidate for a political party office.
- (9) If I am serving as an inspector, I am not the chairman or treasurer of the committee of a candidate whose name appears on the ballot.
- (10) I am not related to any person to be voted for at this election in this precinct as the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of that person, unless that person is an unopposed candidate.
- (11) I was trained as required by IC 3-6-6-40.

(12) If I am serving as a proof of identification checker, I was trained as required by section 41 of this chapter.

SECTION 8. IC 3-6-6-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. Each inspector, judge, **proof of identification checker**, poll clerk, assistant poll clerk, and election sheriff is entitled to a per diem fixed by the county executive for the performance of all the duties of office imposed on the person by this title that are performed on election day.

SECTION 9. IC 3-6-6-41 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 41. (a) In addition to the training and**

educational meeting held for precinct election officers under section 40 of this chapter, the county election board shall require each proof of identification checker appointed under section 1.5 of this chapter to attend and successfully complete a training course to enable the checker to identify fraudulent or forged proof of identification.

(b) Not later than January 1, 2006, the election division shall develop and provide to county election boards a course of study that satisfies the requirements of subsection (a).

(c) In developing the training course described in subsection (a), the election division must consult with:

- (1) the counterterrorism and security council established by IC 4-3-20-2; and**
- (2) the alcohol and tobacco commission created by IC 7.1-2-1-1."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 483 as printed March 15, 2005.)

C. BROWN

Upon request of Representatives C. Brown and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 251: yeas 42, nays 48. Motion failed.

HOUSE MOTION (Amendment 483-1)

Mr. Speaker: I move that Engrossed Senate Bill 483 be amended to read as follows:

Page 1, between lines 16 and 17, begin a new paragraph and insert: "SECTION 2. IC 3-5-8-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6. Not:**

- (1) earlier than thirty (30) days; or**
- (2) later than fifteen (15) days;**

before each primary and general election, the secretary of state shall mail to each voter who registered to vote after the most recent primary or general election a mailing describing in detail the requirements of Indiana law for a voter to show proof of identification before being permitted to vote."

Page 14, after line 20, begin a new paragraph and insert:

"SECTION 22. [EFFECTIVE JULY 1, 2005] **(a) Notwithstanding IC 3-5-8-6, as added by this act, not:**

- (1) earlier than thirty (30) days; or**
- (2) later than fifteen (15) days;**

before the 2006 primary election and the 2006 general election, the secretary of state shall send to all registered voters a mailing describing in detail the requirements of Indiana law for a voter to show proof of identification before being permitted to vote.

(b) This SECTION expires January 1, 2007."

Renumber all SECTIONS consecutively.

(Reference is to ESB 483 as printed March 15, 2005.)

DICKINSON

Upon request of Representatives Dickinson and Mahern, the Speaker ordered the roll of the House to be called. Roll Call 252: yeas 40, nays 47. Motion failed.

Representative Behning was excused for the rest of the day.

HOUSE MOTION (Amendment 483-9)

Mr. Speaker: I move that Engrossed Senate Bill 483 be amended to read as follows:

Page 1, between lines 16 and 17, begin a new paragraph and insert: "SECTION 2. IC 3-6-4.2-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 15. (a) Each county election board shall provide the following information to the election division not more than sixty (60) days after each election:**

- (1) The number of individuals who were unable to vote in the most recent election because the individuals did not have or were unable to provide proof of identification.**
- (2) The number of provisional ballots cast in the most recent election, categorized by reason for the provisional ballots.**
- (3) The number of provisional ballots cast in the most recent election that were counted and the number of provisional ballots cast in the most recent election that were not**

counted.

(b) The election division shall submit before October 1 of each year an annual report in an electronic format under IC 5-14-6 to the legislative council and to the governor. The annual report must include a compilation of the information provided to the election division under subsection (a)."

Page 12, between lines 1 and 2, begin a new paragraph and insert: "SECTION 16. IC 3-11.7-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) As required by 42 U.S.C. 15482, a county election board shall establish a free access system such as a toll-free telephone number or an Internet web site that enables a provisional voter to determine:

- (1) whether the individual's provisional ballot was counted; and
- (2) if the provisional ballot was not counted, the reason the provisional ballot was not counted.

(b) As required by 42 U.S.C. 15482, the county election board shall establish and maintain reasonable procedures to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used on the free access system established by the board under subsection (a).

(c) As required by 42 U.S.C. 15482, the county election board shall restrict access to the information available under subsection (a) about a provisional voter's ballot to the individual who cast the ballot.

(d) The county election board shall prescribe written instructions to inform a provisional voter how the provisional voter can determine whether the provisional voter's ballot has been counted.

(e) A county election board shall provide written notice to each individual who casts a provisional ballot. The written notice must specify:

- (1) whether the individual's provisional ballot was counted; and**
- (2) if the provisional ballot was not counted, the reason the provisional ballot was not counted.**

A county election board must provide the written notice required by this subsection not more than thirty (30) days after the last day for counting provisional ballots."

Renumber all SECTIONS consecutively.

(Reference is to ESB 483 as printed March 15, 2005.)

AUSTIN

Upon request of Representatives Austin and Mahern, the Speaker ordered the roll of the House to be called. Roll Call 253: yeas 41, nays 45. Motion failed.

HOUSE MOTION (Amendment 483-4)

Mr. Speaker: I move that Engrossed Senate Bill 483 be amended to read as follows:

Page 1, line 11, after "document" delete ":" and insert "**is not expired.**".

Page 1, delete lines 12 through 14.

(Reference is to ESB 483 as printed March 15, 2005.)

MAHERN

Upon request of Representatives Crawford and Mahern, the Speaker ordered the roll of the House to be called. Roll Call 254: yeas 40, nays 48. Motion failed.

HOUSE MOTION (Amendment 483-5)

Mr. Speaker: I move that Engrossed Senate Bill 483 be amended to read as follows:

Page 1, between lines 7 and 8, begin a new line block indented and insert:

"(2) The document shows the current address of the individual to whom the document was issued, and the address conforms to the address for the individual shown on the poll list."

Page 1, line 8, delete "(2)" and insert "**(3)**".

Page 1, line 10, delete "(3)" and insert "**(4)**".

Page 1, line 15, delete "(4)" and insert "**(5)**".

(Reference is to ESB 483 as printed March 15, 2005.)

MAHERN

Upon request of Representatives Mahern and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 255: yeas 40,

nays 47. Motion failed. The bill was ordered engrossed.

Engrossed Senate Bill 444

Representative Friend called down Engrossed Senate Bill 444 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 444-8)

Mr. Speaker: I move that Engrossed Senate Bill 444 be amended to read as follows:

Page 14, after line 23, begin a new paragraph and insert:

"SECTION 16. P.L. 28-2004, SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: SECTION 191. (a) As used in this SECTION, "division" refers to the division of mental health and addiction.

(b) Except as provided in ~~subsection (c)~~ **subsections (c) and (d)**, notwithstanding IC 12-23-1-6(4), IC 12-23-14-7, and 440 IAC 4.4-2-1(e), the division may not grant specific approval to be a new provider of any of the following:

- (1) Methadone.
- (2) Levo-alpha-cetylmethadol.
- (3) Levo-alpha-acetylmethadol.
- (4) Levomethadyl acetate.
- (5) LAAM.
- (6) Buprenorphine.

(c) The division may not grant specific approval to be a new provider of one (1) or more of the drugs listed under subsection (b) unless:

- (1) the drugs will be provided in a county with a population of more than forty thousand (40,000);
- (2) there are no other providers located in the county or in a county contiguous to the county where the provider will provide the drugs; and
- (3) the provider supplies, in writing:
 - (A) a needs assessment for Indiana citizens under guidelines established by the division; and
 - (B) any other information required by the division.

(d) Notwithstanding subsection (c), the division may grant specific approval to be a new provider of one (1) or more of the drugs listed under subsection (b) in a county contiguous to a county in which an existing provider is located if:

- (1) the drugs will be provided in a county with a population of more than forty thousand (40,000);**
- (2) there are no other providers of the drugs listed under subsection (b) in the county in which the provider is seeking approval; and**
- (3) the provider supplies, in writing:**
 - (A) a needs assessment for Indiana citizens under guidelines established by the division that demonstrates:**
 - (i) a heroin or opiate problem exists in the county in which the provider is seeking approval; and**
 - (ii) a need exists for a heroin or an opiate treatment program in the county; and**
 - (B) any other information required by the division.**

~~(d)~~ **(e)** Except as provided in subsection ~~(k)~~ **(l)**, the division shall prepare a report by June 30 of each year concerning treatment offered by methadone providers that contains the following information:

- (1) The number of methadone providers in the state.
- (2) The number of patients on methadone during the previous year.
- (3) The length of time each patient received methadone and the average length of time all patients received methadone.
- (4) The cost of each patient's methadone treatment and the average cost of methadone treatment.
- (5) The rehabilitation rate of patients who have undergone methadone treatment.
- (6) The number of patients who have become addicted to methadone.
- (7) The number of patients who have been rehabilitated and are no longer on methadone.
- (8) The number of individuals, by geographic area, who are on a waiting list to receive methadone.
- (9) Patient information as reported to a central registry created

by the division.

~~(e)~~ **(f)** Each methadone provider in the state shall provide information requested by the division for the report under subsection ~~(d)~~ **(e)**. The information provided to the division may not reveal the specific identity of a patient.

~~(f)~~ **(g)** The information provided to the division under subsection ~~(e)~~ **(f)** must be based on a calendar year.

~~(g)~~ **(h)** The information required under subsection ~~(e)~~ **(f)** for calendar year 1998 must be submitted to the division not later than June 30, 1999. Subsequent information must be submitted to the division not later than:

- (1) February 29, 2004, for calendar year 2003;
- (2) February 28, 2005, for calendar year 2004;
- (3) February 28, 2006, for calendar year 2005;
- (4) February 28, 2007, for calendar year 2006; and
- (5) February 29, 2008, for calendar year 2007.

~~(h)~~ **(i)** Failure of a certified provider to submit the information required under subsection ~~(e)~~ **(f)** may result in suspension or termination of the provider's certification.

~~(i)~~ **(j)** The division shall report to the governor and the legislative council the failure of a certified provider to provide information required by subsection ~~(e)~~ **(f)**.

~~(j)~~ **(k)** The division shall distribute the report prepared under subsection ~~(d)~~ **(e)** to the governor and legislative council.

~~(k)~~ **(l)** The first report the division is required to prepare under subsection ~~(d)~~ **(e)** is due not later than September 30, 1999.

~~(l)~~ **(m)** The division shall establish a central registry to receive the information required by subsection ~~(d)~~ **(e)**.

~~(m)~~ **(n)** **A report distributed under this SECTION to the legislative council must be in an electronic format under IC 5-14-6.**

(o) This SECTION expires July 1, 2008."

(Reference is to ESB 444 as printed March 11, 2005.)

AYRES

Motion prevailed.

HOUSE MOTION (Amendment 444-7)

Mr. Speaker: I move that Engrossed Senate Bill 444 be amended to read as follows:

Page 9, line 4, delete "or".

Page 9, between lines 7 and 8, begin a new line triple block indented and insert:

**"(vii) is an employee of a court; or
(viii) is an employee of a probation department;".**

(Reference is to ES 444 as printed March 11, 2005.)

GOODIN

Representative Whetstone rose to a point of order, citing Rule 80, stating that the motion was not germane to the bill

After discussion, Representative Whetstone withdrew the point of order and Representative Goodin withdrew the motion to amend.

HOUSE MOTION (Amendment 444-2)

Mr. Speaker: I move that Engrossed Senate Bill 444 be amended to read as follows:

Page 2, delete lines 14 through 42.

Page 3, delete lines 1 through 9.

Page 5, line 3, delete "may" and insert "shall".

Page 5, line 5, delete "quarantined" and insert "contaminated".

(Reference is to ESB 444 as printed March 11, 2005.)

THOMAS

Motion prevailed.

HOUSE MOTION (Amendment 444-6)

Mr. Speaker: I move that Engrossed Senate Bill 444 be amended to read as follows:

Page 10, between lines 17 and 18, begin a new line blocked left and insert:

"However, a person other than a pharmacist may dispense a drug that contains ephedrine or pseudoephedrine in single or double

dosage packaging without complying with the schedule V controlled substance requirements described in 856 IAC 2-6-18."

Page 13, line 30, after "(a)" insert **"This section does not apply to a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both, that is sold in single or double dosage packaging."**

(b)".

Page 13, line 41, delete "(b)" and insert "(c)".

Page 14, line 1, delete "(c)" and insert "(d)".

Page 14, line 3, delete "(d)" and insert "(e)".

Page 14, line 12, delete "(e)" and insert "(f)".

Page 14, line 18, delete "(f)" and insert "(g)".

(Reference is to ESB 444 as printed March 11, 2005.)

TINCHER

Motion failed. The bill was ordered engrossed.

Representative Messer was excused for the rest of the day.

Engrossed Senate Bill 1

Representative Turner called down Engrossed Senate Bill 1 for second reading. The bill was read a second time by title.

HOUSE MOTION (Amendment 1-5)

Mr. Speaker: I move that Engrossed Senate Bill 1 be amended to read as follows:

Page 34, delete line 30.

Page 34, line 31, delete "(2)" and insert "(1)".

Page 34, line 32, delete "(3)" and insert "(2)".

Page 34, line 33, delete "(4)" and insert "(3)".

(Reference is to ESB 1 as printed March 15, 2005.)

TURNER

Motion prevailed.

HOUSE MOTION (Amendment 1-6)

Mr. Speaker: I move that Engrossed Senate Bill 1 be amended to read as follows:

Page 36, between lines 8 and 9, begin a new paragraph and insert: **"SECTION 27. IC 6-3.1-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:**

Chapter 31. Hoosier Scholars Tax Credit

Sec. 1. As used in this chapter, "eligible county" has the meaning set forth in IC 20-12-20.3-3.

Sec. 2. As used in this chapter, "eligible taxpayer" means an individual who satisfies the following requirements:

(1) The individual participated in the Hoosier scholars pilot program established under IC 20-12-20.3.

(2) The individual received provisional tax credits under the program described in subdivision (1).

(3) The individual graduated from a degree program offered at an institution of higher learning (as defined in IC 20-12-20.3-4).

(4) The individual is employed in the eligible county where the educational institution conferring the degree referred to in subdivision (3) is located.

(5) The individual is employed in a field of targeted employment.

Sec. 3. As used in this chapter, "state income tax liability" means an individual's adjusted gross income tax liability under IC 6-3.

Sec. 4. As used in this chapter, "targeted employment" means employment in any of the following business activities:

(1) Advanced manufacturing, including the following:

(A) Automotive and electronics.

(B) Aerospace technology.

(C) Robotics.

(D) Engineering design technology.

(2) Life sciences, including the following:

(A) Orthopedics or medical devices.

(B) Biomedical research or development.

(C) Pharmaceutical manufacturing.

(D) Agribusiness.

- (E) Nanotechnology or molecular manufacturing.
- (3) Information technology, including the following:
 - (A) Informatics.
 - (B) Certified network administration.
 - (C) Software development.
 - (D) Fiber optics.
- (4) Twenty-first century logistics, including the following:
 - (A) High technology distribution.
 - (B) Efficient and effective flow and storage of goods, services, or information.
 - (C) Intermodal ports.

Sec. 5. (a) Beginning with the eligible taxpayer's first taxable year that begins after the date that the eligible taxpayer graduated from a degree program, an eligible taxpayer is entitled to a refundable credit against the eligible taxpayer's state income tax liability. The amount of the tax credit is equal to the amount of the provisional credit awarded to the eligible taxpayer in the academic year that corresponds to the number of taxable years following the eligible taxpayer's graduation as follows:

Taxable year following graduation	Academic year in the program
1st	1st
2nd	2nd
3rd	3rd
4th	4th

(b) If the amount of the credit under this chapter exceeds the eligible taxpayer's state tax liability for the taxable year, the excess shall be refunded to the eligible taxpayer.

Sec. 6. To obtain the credit provided by this chapter, an eligible taxpayer must file with the department information proving the amount of the provisional tax credits awarded to the eligible taxpayer as a student participating in the Indiana growth scholars program and any other information required by the department."

Page 39, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 30. IC 20-12-20.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 20.3. Hoosier Scholars Pilot Program

Sec. 1. As used in this chapter, "commission" refers to the state student assistance commission established by IC 20-12-21-4.

Sec. 2. As used in this chapter, "eligible county" means any of the following counties:

- (1) Madison County.
- (2) Grant County.
- (3) Huntington County.

Sec. 3. As used in this chapter, "eligible student" means a student (as defined in IC 22-4.1-7-4) who is enrolled full time as an undergraduate in a degree program offered at an institution of higher learning located in an eligible county. The commission may impose additional eligibility requirements, including requirements set forth in IC 20-12-21-6.

Sec. 4. As used in this chapter, "institution of higher learning" means:

- (1) a state educational institution (as defined in IC 20-12-0.5-1); or
- (2) a private institution of higher education (as defined in IC 20-12-63-3(10)).

Sec. 5. (a) The Indiana growth scholars program is established.

(b) The commission shall administer the program.

Sec. 6. The executive director of the commission may employ or contract for clerical and professional staff and administrative support necessary to implement this chapter.

Sec. 7. (a) The commission shall award a provisional tax credit to an eligible student who:

- (1) is enrolled in good standing in a degree program at an institution of higher learning located in an eligible county;
- (2) enters into an agreement with the commission under this chapter; and
- (3) complies with the requirements established under the rules of the commission.

(b) An eligible student may not claim a tax credit against the student's Indiana adjusted gross income tax under this chapter.

However, proof of the provisional tax credit awarded under this chapter may be used to obtain a tax credit under IC 6-3.1-31 in a taxable year that begins after the eligible student graduates from a degree program and remains eligible for a tax credit under the requirements of IC 6-3.1-31.

Sec. 8. (a) The amount of a provisional tax credit awarded under section 8 of this chapter to an eligible student may not exceed two thousand dollars (\$2,000) per academic year.

(b) The commission may not award total provisional tax credits for any academic year that exceeds the limit specified by law (if any).

(c) The commission may consider any of the following factors in determining the amount of the provisional tax credit to award under section 7 of this chapter:

(1) Whether an eligible student is enrolled in a degree program for less than a full academic year.

(2) Any other factor set forth in the rules of the commission.

Sec. 9. An eligible student must enter into an agreement with the commission to be eligible for a provisional tax credit under this chapter. The agreement must include the following requirements:

(1) The eligible student must remain enrolled in good standing in a degree program during the academic year at an institution of higher learning located in an eligible county.

(2) After the student graduates from the degree program, the eligible student must, as a condition of claiming the credit provided under IC 6-3.1-31:

(A) remain in Indiana; and

(B) be employed in the eligible county where the institution of higher learning referred to in subdivision (1) is located;

for a period of years equal to the number of years for which the student received a provisional tax credit under this chapter.

The agreement may include any other provisions that the commission considers necessary to administer this chapter.

Sec. 10. The commission shall enter into agreements to implement this chapter with institutions of higher learning located in eligible counties.

Sec. 11. The commission may adopt rules under IC 4-22-2 that are necessary or appropriate to implement this chapter. The rules that are adopted under this chapter may include rules establishing different standards or procedures for resident and nonresident students."

Page 58, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 41. [EFFECTIVE JANUARY 1, 2006] IC 6-3.1-31, as added by this act, applies only to taxable years beginning after December 31, 2005."

Renumber all SECTIONS consecutively.

(Reference is to ESB 1 as printed March 15, 2005.)

TURNER

Motion prevailed.

HOUSE MOTION
(Amendment 1-4)

Mr. Speaker: I move that Engrossed Senate Bill 1 be amended to read as follows:

Page 21, between lines 6 and 7, begin a new paragraph and insert:

"Sec. 2. (a) A person who desires to claim the deduction provided by section 4 or 5 of this chapter, or both, must file an application in duplicate, on forms prescribed by the department of local government finance, with the county auditor in which the property is located. The application must be filed during the twelve (12) months before May 11 of each year for which the person wishes to obtain the deduction. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

(b) The application referred to in subsection (a) must contain the following information, which the property owner must verify under penalties for perjury:

(1) A description of the property.

(2) The address within the county at which the property is

installed.

(3) The date on which the property was installed.

(4) A declaration that by virtue of the capital investment in the described property the property owner is creating new jobs or retaining existing jobs, or both, in the county in which the property is located.

(5) A description of the jobs created or retained as a result of the investment.

(6) A statement of the number of jobs created or retained as a result of the investment.

Sec. 3. (a) Subject to this section, the county auditor shall approve an application for a deduction under this chapter that gives plausible evidence of the creation or retention of labor employment as a direct result of the capital investment described in the application.

(b) In each particular year, the total amount of all deductions approved for all property owners submitting applications under section 2 of this chapter in a county may not exceed fifty million dollars (\$50,000,000).

(c) The total amount of deductions that a particular taxpayer may receive under this chapter in all counties in Indiana in a particular year may not exceed the amount determined under section 8 of this chapter."

Page 21, line 7, delete "2." and insert "4."

Page 21, line 14, delete "4, 5, and 8" and insert "6, 7, and 11".

Page 21, line 20, delete "is entitled to" and insert "may receive".

Page 21, line 25, delete "The amount of the".

Page 21, delete lines 26 through 38, begin a new a paragraph and insert:

"(d) Subject to sections 2, 3, and 8 of this chapter, the amount of the deduction that a property owner may receive with respect to real property located in a county for a particular year equals the amount determined in STEP SEVEN of the following formula:

STEP ONE: Determine the increase in assessed value resulting from the development, rehabilitation, or redevelopment.

STEP TWO: Determine the appropriate percentage from the following table:

YEAR OF DEDUCTION	PERCENTAGE
1st	75%
2nd	50%
3rd	25%

STEP THREE: Multiply the STEP ONE amount by the STEP TWO percentage.

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE amount.

(B) One million dollars (\$1,000,000).

STEP FIVE: Determine the sum of the deductions approved under section 3 of this chapter for all property owners who filed an application under section 2 of this chapter with respect to property located in the county for the particular year.

STEP SIX: If the STEP FIVE amount is not greater than fifty million dollars (\$50,000,000), the result of this STEP is one (1). If the STEP FIVE amount is greater than fifty million dollars (\$50,000,000), the result of this STEP is fifty million dollars (\$50,000,000) divided by the STEP FIVE amount.

STEP SEVEN: Multiply the STEP FOUR amount by the STEP SIX amount."

Page 21, delete lines 39 through 42.

Page 22, delete lines 1 through 6.

Page 22, line 13, delete "(c)(2)" and insert "(d)".

Page 22, line 24, delete "3." and insert "5."

Page 22, line 31, delete "4, 5, and 8" and insert "6, 7, and 11".

Page 22, line 37, delete "is entitled to" and insert "may receive".

Page 23, line 2, delete "The amount of the deduction that a".

Page 23, delete lines 3 through 13, begin a new a paragraph and insert:

"(d) Subject to sections 2, 3, and 8 of this chapter, the amount of the deduction that a property owner may receive with respect to personal property located in a county for a particular year

equals the amount determined in STEP SEVEN of the following formula:

STEP ONE: Determine the increase in assessed value resulting from the installation of the personal property.

STEP TWO: Determine the appropriate percentage from the following table:

YEAR OF DEDUCTION	PERCENTAGE
1st	75%
2nd	50%
3rd	25%

STEP THREE: Multiply the STEP ONE amount by the STEP TWO percentage.

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE amount.

(B) One million dollars (\$1,000,000).

STEP FIVE: Determine the sum of the deductions approved under section 3 of this chapter for all property owners who filed an application under section 2 of this chapter with respect to property located in the county for the particular year.

STEP SIX: If the STEP FIVE amount is not greater than fifty million dollars (\$50,000,000), the result of this STEP is one (1). If the STEP FIVE amount is greater than fifty million dollars (\$50,000,000), the result of this STEP is fifty million dollars (\$50,000,000) divided by the STEP FIVE amount.

STEP SEVEN: Multiply the STEP FOUR amount by the STEP SIX amount."

Page 23, line 14, delete "(d)" and insert "(e)".

Page 23, line 18, delete "(e)" and insert "(f)".

Page 23, line 19, delete "The".

Page 23, delete lines 20 through 23.

Page 23, line 24, delete "(f)" and insert "(g)".

Page 23, line 29, delete "4." and insert "6."

Page 23, line 32, delete "5." and insert "7."

Page 23, between lines 40 and 41, begin a new paragraph and insert:

"Sec. 8. The total amount of the deductions that a property owner may receive under this chapter with respect to all personal and real property located in any county in Indiana for a particular year may not exceed ten million dollars (\$10,000,000)."

Page 23, line 41, delete "6." and insert "9."

Page 24, line 17, delete "7." and insert "10."

Page 24, line 17, delete "6(3)" and insert "9(3)".

Page 24, line 21, delete "6(1)" and insert "9(1)".

Page 24, line 25, delete "6(3)" and insert "9(3)".

Page 24, line 27, delete "6(1)" and insert "9(1)".

Page 24, line 28, delete "8." and insert "11."

Page 24, line 29, delete "6(3)" and insert "9(3)".

Page 24, line 31, delete "6(1)" and insert "9(1)".

Page 24, line 35, delete "6(1)" and insert "9(1)".

Page 25, line 4, delete "9." and insert "12."

Page 25, line 4, delete "8" and insert "11".

Page 25, line 20, delete "10." and insert "13."

Page 25, line 21, delete "8" and insert "11".

Page 25, line 32, delete "11." and insert "14."

Page 25, line 32, delete "10" and insert "13".

Page 25, line 36, delete "12." and insert "15."

Page 25, line 40, delete "2(c)(2)(B) or 3(c)(2)(B)" and insert "4(d) STEP TWO or 5(d) STEP TWO".

Page 26, line 4, delete "13." and insert "16."

Renumber all SECTIONS consecutively.

(Reference is to ESB 1 as printed March 15, 2005.)

CRAWFORD

Upon request of Representatives Crawford and Porter, the Speaker ordered the roll of the House to be called. Roll Call 256: yeas 41, nays 46. Motion failed.

HOUSE MOTION
(Amendment 1-3)

Mr. Speaker: I move that Engrossed Senate Bill 1 be amended to read as follows:

Page 3, between lines 9 and 10, begin a new paragraph and insert:
 "SECTION 2. IC 6-1.1-12-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 37. (a) Each year a person who is entitled to receive the homestead credit provided under IC 6-1.1-20.9 for property taxes payable in the following year is entitled to a standard deduction from the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property that qualifies for the homestead credit. The auditor of the county shall record and make the deduction for the person qualifying for the deduction.

(b) Except as provided in section 40.5 of this chapter, the total amount of the deduction that a person may receive under this section for a particular year is the lesser of:

(1) one-half ($\frac{1}{2}$) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or

(2) ~~thirty-five~~ **forty-two** thousand dollars (~~\$35,000~~); (**\$42,000**).

(c) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

SECTION 3. IC 6-1.1-12-44 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 44. (a) As used in this section, "agricultural land" refers to land that is assessed as agricultural land under IC 6-1.1-4-13.

(b) As used in this chapter, "farm" means one (1) or more tracts of agricultural land with common ownership that are:

(1) devoted to an agricultural use;

(2) located in one (1) county; and

(3) contiguous, as determined without regard to any intervening public, public utility, or transportation easements or rights-of-way.

(c) As used in this section, "farm owner" means a person who:

(1) is an owner of a farm; and

(2) either is:

(A) an individual who:

(i) actively participates in; and

(ii) alone or with one (1) or more other individuals substantially owns and controls;

the use of the agricultural land; or

(B) a corporation (as defined in IC 6-3-1-10) or a partnership (as defined in IC 6-3-1-19) that, directly or indirectly, is substantially owned and controlled by one (1) or more individuals who actively participate in and substantially control the use of the agricultural land.

(d) As used in this section, "total farmland acreage" means total farmland acreage, as determined for agricultural land under the rules adopted by the department of local government finance.

(e) Beginning with property taxes first due and payable in 2006, a farm owner is eligible in each year for a farmstead deduction from the assessed valuation of the farm owner's farm. A farm owner is entitled to only one (1) farmstead deduction under this section, regardless of the number of farms in which the farm owner has an ownership interest.

(f) The amount of the farmstead deduction is equal to the lesser of the following:

(1) The amount specified in section 37(b)(2) of this chapter that is applicable to the year.

(2) Twenty percent (20%) of the assessed valuation of the total farmland acreage in the farm.

If the farm consists of more than one (1) tract that receives separate tax statements under IC 6-1.1-22-8, the farmstead deduction shall be allocated among the tracts in conformity with the rules adopted by the department of local government finance.

(g) To obtain the farmstead deduction under this section, a farm owner must file a certified statement in duplicate:

(1) on forms prescribed by the department of local government finance; and

(2) containing the information required by the department

of local government finance;

with the county auditor of the county in which the agricultural land is subject to assessment. The statement must be filed before May 10 of the year containing the assessment date for the first year to which the farmstead deduction is to be applied. Upon verification of the statement by the township assessor of the township in which the agricultural land is subject to assessment, the county auditor shall allow the farmstead deduction.

(h) A person who receives a farmstead deduction under this section for a particular year and who remains eligible for the farmstead deduction for the following year is not required to file a statement to apply for the farmstead deduction for the following year.

(i) A person who receives a farmstead deduction provided under this section for a particular year and becomes ineligible for the farmstead deduction for the following year shall, before March 31 of the year for which the person becomes ineligible, notify the county auditor of the county in which the agricultural land for which the person received the farmstead deduction is located of the person's ineligibility. The filing of an amended application under subsection (k) meets the requirements of this subsection.

(j) The county auditor of each county shall, in a particular year, apply a farmstead deduction provided under this section to each person who received the farmstead deduction in the preceding year unless the auditor determines that the person is no longer eligible for the farmstead deduction.

(k) The following do not terminate eligibility for a farmstead deduction under this section:

(1) A change in ownership or control of agricultural land if:

(A) a person who is a farm owner after the change in ownership or control files, before March 31 after the change in ownership or control occurs, an amended application with the county auditor in the county in which the farm is located, in the form prescribed by the department of local government finance; and

(B) the agricultural land otherwise continues to qualify for the farmstead deduction under this section after the change in ownership or control.

(2) A change in the ownership or control of a corporation (as defined in IC 6-3-1-10) or a partnership (as defined in IC 6-3-1-19) that owns agricultural land, if the corporation or the partnership:

(A) files, before March 31 after the change in ownership or control occurs, an amended application with the county auditor in the county in which the agricultural land is located, in the form prescribed by the department of local government finance; and

(B) otherwise continues to qualify for the farmstead deduction under this section after the change in ownership or control.

In applying subdivision (1) or (2) after the death of a farm owner or a shareholder, partner, member, or beneficiary of a farm owner, the person who is entitled to receive the property interest of the deceased person shall be treated as an owner of the deceased person's interest while the interest is in the estate of the deceased person."

Page 61, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 45. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 6-1.1-1 and IC 6-1.1-12-44, as added by this act, apply throughout this SECTION.

(b) IC 6-1.1-12-37, as amended by this act, and IC 6-1.1-12-44, as added by this act, apply only to property taxes first due and payable after December 31, 2005, for an assessment date after February 28, 2005.

(c) Notwithstanding IC 6-1.1-12-44, as added by this act, the time in which a person may file the initial application for a deduction under IC 6-1.1-12-44, as added by this act, for property taxes first due and payable in 2006 is extended from May 10, 2005, to the close of regular business hours for the office of the county auditor on September 2, 2005.

(d) The department of local government finance may adopt temporary rules in the manner provided for the adoption of

emergency rules under IC 4-22-2-37.1 to implement this SECTION. A temporary rule adopted under this SECTION expires on the earliest of the following:

- (1) The date another temporary rule is adopted under this SECTION to supersede the previously adopted temporary rule.
- (2) The date that a permanent rule superseding the temporary rule is adopted and becomes effective under IC 4-22-2.
- (3) January 1, 2007."

Renumber all SECTIONS consecutively.

(Reference is to ESB 1 as printed March 15, 2005.)

OXLEY

Upon request of Representatives Oxley and Stilwell, the Speaker ordered the roll of the House to be called. Roll Call 257: yeas 39, nays 46. Motion failed.

HOUSE MOTION

(Amendment 1-1)

Mr. Speaker: I move that Engrossed Senate Bill 1 be amended to read as follows:

Page 26, between lines 5 and 6, begin a new paragraph and insert: "SECTION 13. IC 6-1.1-12.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 12.5. Assessment Phase-in Deduction

Sec. 1. For purposes of this chapter:

- (1) "personal property" does not include:
 - (A) inventory (as defined in IC 6-1.1-3-11); and
 - (B) personal property used by a retail business;
- (2) "real property" does not include:
 - (A) a single family dwelling if the first year in which the dwelling would otherwise qualify for the deduction under this section is the first year the dwelling is subject to assessment; and
 - (B) real property used by a retail business; and
- (3) "rehabilitate" means to remodel, repair, or improve in any manner.

Sec. 2. (a) Subject to subsection (g) and section 3 of this chapter, a taxpayer that installs or rehabilitates personal property for which the taxpayer is liable for property taxes is entitled to a deduction from the assessed value of the personal property. For purposes of this subsection, personal property is considered to be installed if the property is installed as described in 50 IAC 10-1-2, as in effect on January 1, 2005.

(b) Subject to subsection (g) and section 3 of this chapter, a taxpayer that constructs or rehabilitates real property for which the taxpayer is liable for property taxes is entitled to a deduction from the assessed value of the real property.

(c) The deduction under this section is available in:

- (1) the year in which:
 - (A) the personal property or real property is first subject to assessment; or
 - (B) the rehabilitation of the real property results in an increased assessed valuation of the real property; and
- (2) the immediately succeeding two (2) years.

(d) The amount of the deduction that a taxpayer may receive for the year referred to in subsection (c)(1) equals the product of:

- (1) the assessed value for that year resulting from:
 - (A) the installation of the personal property, or the rehabilitation of the personal property to the extent the rehabilitation results in an assessed value that exceeds the assessed value of the personal property for the immediately preceding year; or
 - (B) the construction or rehabilitation of the real property;

multiplied by

- (2) seventy-five percent (75%).

(e) The amount of the deduction that a taxpayer may receive for the first year referred to in subsection (c)(2) equals the product of:

- (1) the assessed value of:
 - (A) the personal property installed in the year referred to in subsection (c)(1) determined for the first year referred

to in subsection (c)(2);

(B) the personal property rehabilitated in the year referred to in subsection (c)(1) to the extent the rehabilitation results in an assessed value for the first year referred to in subsection (c)(2) that exceeds the assessed value of the personal property that would have applied for the first year referred to in subsection (c)(2) if the rehabilitation had not occurred; or

(C) the real property determined for the immediately preceding year under subsection (d)(1)(B) as adjusted:

- (i) in a general reassessment of real property under IC 6-1.1-4-4; or
- (ii) under IC 6-1.1-4-4.5;

multiplied by

- (2) fifty percent (50%).

(f) The amount of the deduction that a taxpayer may receive for the second year referred to in subsection (c)(2) equals the product of:

(1) the assessed value of:

(A) the personal property installed in the year referred to in subsection (c)(1) determined for the second year referred to in subsection (c)(2);

(B) the personal property rehabilitated in the year referred to in subsection (c)(1) to the extent the rehabilitation results in an assessed value for the second year referred to in subsection (c)(2) that exceeds the assessed value of the personal property that would have applied for the second year referred to in subsection (c)(2) if the rehabilitation had not occurred; or

(C) the real property determined for the immediately preceding year under subsection (d)(1)(B) as adjusted:

- (i) in a general reassessment of real property under IC 6-1.1-4-4; or
- (ii) under IC 6-1.1-4-4.5;

multiplied by

- (2) twenty-five percent (25%).

(g) A property owner that qualifies for a deduction for a year under:

- (1) this section; and
- (2) another statute;

with respect to the same real property or personal property may not receive a deduction for the property under both statutes for that year.

(h) A property owner is not required to file an application to qualify for the deduction under this section. The county auditor shall:

- (1) make the deduction; and
- (2) notify the county property tax assessment board of appeals of all deductions approved;

under this section.

Sec. 3. If ownership of the personal property or real property changes:

- (1) the deduction provided under this chapter continues to apply to the property; and
- (2) the amount of deduction is:

(A) the percentage under subsection 2(d)(2), or 2(e)(2), or 2(f)(2) of this chapter that would have applied if the ownership of the property had not changed; multiplied by

(B) the assessed value of the property for the year the new owner is entitled to the deduction.

Sec. 4. The department of local government finance shall adopt rules under IC 4-22-2 to implement this chapter."

Page 39, line 39, after "IC 36-7-14-39" insert ", AS AMENDED BY P.L.4-2005, SECTION 135,".

Page 41, line 5, delete "portion" and insert "part".

Page 41, line 9, delete "portion" and insert "part".

Page 43, line 1, delete "portion" and insert "part".

Page 43, line 12, delete "(A)" and insert "(i)".

Page 43, line 16, delete "(B)" and insert "(ii)".

Page 43, line 18, delete "(A)" and insert "(i)".

Page 43, line 19, delete "(B)" and insert "(ii)".

Page 45, line 7, delete "IC 4-4-6.1," and insert "IC 5-28-15,".

Page 45, line 19, delete "portion" and insert "part".

Page 45, line 34, delete "portion" and insert "part".
 Page 46, line 10, after "IC 36-7-15.1-26" insert ", AS AMENDED BY P.L.4-2005, SECTION 138,".
 Page 47, line 18, delete "portion" and insert "part".
 Page 47, line 22, delete "portion" and insert "part".
 Page 50, line 26, delete "IC 4-4-6.1," and insert "IC 5-28-15,".
 Page 51, line 19, delete "portion" and insert "part".
 Page 51, line 36, after "IC 36-7-15.1-53" insert ", AS AMENDED BY P.L.4-2005, SECTION 140,".
 Page 55, line 3, delete "IC 4-4-6.1," and insert "IC 5-28-15,".
 Page 61, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 44. [EFFECTIVE JANUARY 1, 2006] **IC 6-1.1-12.5, as added by this act, applies only to property taxes first due and payable after December 31, 2006.**"

Renumber all SECTIONS consecutively.

(Reference is to ESB 1 as printed March 15, 2005.)

DAY

Motion prevailed. The bill was ordered engrossed.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 213, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective dates in SECTIONS 1 through 2 with "[EFFECTIVE JULY 1, 2005]".

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-2.5-1-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 28. "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.**

SECTION 2. IC 6-2.5-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) Sales of food and food ingredients for human consumption are exempt from the state gross retail tax.

(b) For purposes of this section, the term "food and food ingredients for human consumption" includes the following items if sold without eating utensils provided by the seller:

(1) Food sold by a seller whose proper primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries).

(2) Food sold in an unheated state by weight or volume as a single item.

(3) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(c) Except as otherwise provided by subsection (b), for purposes of this section, the term "food and food ingredients for human consumption" does not include:

(1) candy;

(2) alcoholic beverages;

(3) soft drinks;

(4) food sold through a vending machine;

(5) food sold in a heated state or heated by the seller;

(6) two (2) or more food ingredients mixed or combined by the seller for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(7) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food); or
(8) tobacco."

Page 1, line 3, delete ""recreational vehicle"" and insert ""cargo

trailer" means a vehicle:

(1) without motive power;

(2) designed for carrying property; and

(3) designed for being drawn by a motor vehicle.

The term includes pole trailers, boat trailers, utility trailers, semitrailers (as defined in IC 9-13-2-164(a)), and two (2) wheeled homemade trailers."

Page 1, line 4, before "means" begin a new paragraph and insert: **"(b) As used in this section, "recreational vehicle"."**

Page 1, line 9, delete "(b)" and insert "(c)".

Page 1, line 9, after "involving" insert "**a cargo trailer,"**".

Page 1, line 9, after "vehicle" insert ",".

Page 1, line 12, after "the" insert "**cargo trailer,"**".

Page 1, line 12, after "vehicle" insert ",".

Page 1, line 15, after "the" insert "**cargo trailer,"**".

Page 1, line 15, after "vehicle" insert ",".

Page 1, line 17, after "the" insert "**cargo trailer,"**".

Page 1, line 17, after "vehicle" insert ",".

Page 2, line 2, after "for" insert "**a cargo trailer or"**".

Page 2, line 3, delete "(c)." and insert "(d)".

Page 2, line 4, delete "(c)" and insert "(d)".

Page 2, line 4, after "for" insert "**a cargo trailer or"**".

Page 2, line 7, after "the" insert "**cargo trailer or"**".

Page 2, line 11, after "the" insert "**cargo trailer or"**".

Page 2, line 14, after "the" insert "**cargo trailer or"**".

Page 2, delete lines 15 through 19.

Page 2, line 20, delete "(d)" and insert "(e)".

Page 2, line 23, delete "(e)" and insert "(f)".

Page 2, line 26, after "the" insert "**cargo trailer,"**".

Page 2, line 26, after "vehicle" insert ",".

Page 2, line 29, after "the" insert "**cargo trailer,"**".

Page 2, line 29, after "vehicle" insert ",".

Page 2, line 32, after "which the" insert "**cargo trailer,"**".

Page 2, line 32, after "vehicle" insert ", or aircraft".

Page 2, line 35, after "registration of the" insert "**cargo trailer,"**".

Page 2, line 36, after "vehicle" insert ", or aircraft".

Page 2, line 37, delete "(f)" and insert "(g)".

Page 2, line 39, after "selling" insert "**cargo trailers or"**".

Page 2, between lines 39 and 40, begin a new paragraph and insert: **"SECTION 4. IC 6-2.5-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section. A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.**

(b) A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

(c) A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

(d) The department shall allow any monetary allowances that are provided by the member states to sellers or certified service providers in exchange for collecting the sales and use taxes as provided in article VI of the agreement.

SECTION 5. IC 6-3-2-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Sec. 20. (a) As used in this section:

- (1) "steel framing" refers to steel framing manufactured in the United States; and
- (2) "qualifying residence" means a single family or two (2) family residence constructed wholly or partially with steel framing.

(b) For taxable years beginning after December 31, 2005, a resident individual taxpayer is entitled to a deduction from the taxpayer's adjusted gross income for a particular taxable year if, during that taxable year, the taxpayer acquires title to a qualifying residence that the taxpayer purchases from the builder of the qualifying residence.

(c) The amount of the deduction under subsection (b) in a particular taxable year is the lesser of:

- (1) the part of the purchase price of the qualifying residence attributable to the cost of materials for the steel framing; or
- (2) one thousand dollars (\$1,000).

(d) To obtain the deduction provided by this section, the taxpayer must file with the department:

- (1) proof of the cost of materials for the steel framing; and
- (2) a list of the persons or businesses that supplied materials for the steel framing."

Page 2, line 41, delete "May 31," and insert "June 30,".

Renumber all SECTIONS consecutively.

(Reference is to SB 213 as printed February 9, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 19, nays 2.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 378, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "The definitions in" and insert "The general assembly declares that the opportunity for the participation of underutilized small businesses, especially women and minority business enterprises, in the biodiesel and ethanol production industries is essential if social and economic parity is to be obtained by women and minority business persons and if the economy of Indiana is to be stimulated as contemplated by this section, IC 6-3.1-27, and IC 6-3.1-28. A recipient of a credit under this chapter is encouraged to purchase goods and services from underutilized small businesses, especially women and minority business enterprises."

Page 1, delete line 4.

Page 1, line 5, before "used" begin a new paragraph and insert:

"(b) The definitions in IC 6-3.1-27 and IC 6-3.1-28 apply throughout this section. A term"

Page 1, between lines 12 and 13, begin a new paragraph and insert:

"(c) As used in this section, "minority" means a member of a minority group (as defined in IC 4-13-16.5-1).

(d) As used in this section, "minority business enterprise" has the meaning set forth in IC 4-13-16.5-1.

(e) As used in this section, "women's business enterprise" has the meaning set forth in IC 4-13-16.5-1.3."

Page 1, line 13, delete "(b)" and insert "(f)".

Page 2, line 5, delete "(c)" and insert "(g)".

Page 2, line 17, delete "(d)" and insert "(h)".

Page 2, line 17, delete "(c)," and insert "(g),".

Page 2, line 34, delete "(e)" and insert "(i)".

Page 2, line 40, delete "(f)" and insert "(j)".

Page 3, line 17, delete "(g)" and insert "(k)".

Page 6, line 11, delete "IC 4-23-5.5-17." and insert "IC 5-28-6-3."

Page 7, delete lines 24 through 42, begin a new paragraph and insert:

"SECTION 15. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]:

Chapter 29. Coal Gasification Technology Investment Tax Credit

Sec. 1. The general assembly declares that the opportunity for the participation of underutilized small businesses, especially women and minority business enterprises, in the coal gasification industry is essential if social and economic parity is to be obtained by women and minority business persons and if the economy of Indiana is to be stimulated as contemplated by this chapter. A recipient of a credit under this chapter is encouraged to purchase goods and services from underutilized small businesses, especially women and minority business enterprises.

Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission.

Sec. 3. As used in this chapter, "corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 4. As used in this chapter, "department" refers to the department of state revenue.

Sec. 5. As used in this chapter, "Indiana coal" has the meaning set forth in IC 4-4-30-4.

Sec. 6. As used in this chapter, "integrated coal gasification powerplant" means a facility that satisfies all the following requirements:

- (1) The facility is located in Indiana and is a newly constructed energy generating plant.
- (2) The facility converts coal into synthesis gas that can be used as a fuel to generate energy.
- (3) The facility uses the synthesis gas as a fuel to generate electric energy.
- (4) The facility is dedicated primarily to serving Indiana retail electric utility consumers.

Sec. 7. As used in this chapter, "minority" means a member of a minority group (as defined in IC 4-13-16.5-1.)

Sec. 8. As used in this section, "minority business enterprise" has the meaning set forth in IC 4-13-16.5-1.

Sec. 9. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company;
- (4) a limited liability partnership;
- (5) a corporation organized under IC 8-1-13; or
- (6) a corporation organized under IC 23-17-1 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

Sec. 10. As used in this chapter, "qualified investment" means a taxpayer's expenditures for:

- (1) all real and tangible personal property incorporated in and used as part of an integrated coal gasification powerplant; and
- (2) transmission equipment and other real and personal property located at the site of an integrated coal gasification powerplant that is employed specifically to serve the integrated coal gasification powerplant.

Sec. 11. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 6-5.5 (the financial institutions tax);
- (3) IC 27-1-18-2 (the insurance premiums tax); and
- (4) IC 6-2.3 (the utility receipts tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 12. As used in this chapter, "taxpayer" means a person, a corporation, a partnership, or other entity that has any state tax liability.

Sec. 13. As used in this section, "women's business enterprise" has the meaning set forth in IC 4-13-16.5-1.3.

Sec. 14. (a) A taxpayer that:

- (1) is awarded a tax credit under this chapter by the corporation; and
- (2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the

taxpayer under this chapter; is entitled to a credit against the taxpayer's state tax liability for a taxable year in which the taxpayer places into service an integrated coal gasification powerplant and for the taxable years provided in section 16 of this chapter.

(b) A tax credit awarded under this chapter must be applied against the taxpayer's state tax liability in the following order:

- (1) Against the taxpayer's liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).
- (2) Against the taxpayer's liability incurred under IC 6-5.5 (the financial institutions tax).
- (3) Against the taxpayer's liability incurred under IC 27-1-18-2 (the insurance premiums tax).
- (4) Against the taxpayer's liability incurred under IC 6-2.3 (the utility receipts tax).

Sec. 15. Subject to section 16 of this chapter, the amount of the credit to which a taxpayer is entitled is equal to the sum of the following:

- (1) Ten percent (10%) of the taxpayer's qualified investment for the first five hundred million dollars (\$500,000,000) invested.
- (2) Five percent (5%) of the amount of the taxpayer's qualified investment that exceeds five hundred million dollars (\$500,000,000).

Sec. 16. (a) A credit awarded under section 15 of this chapter must be taken in ten (10) annual installments, beginning with the year in which the taxpayer places into service an integrated coal gasification powerplant.

(b) The amount of an annual installment of the credit awarded under section 15 of this chapter is equal to the amount determined in the last of the following STEPS:

STEP ONE: Determine the lesser of:

- (A) the credit amount determined under section 15 of this chapter, divided by ten (10); or
- (B) the greater of:
 - (i) the taxpayer's total state tax liability for the taxable year, multiplied by twenty-five percent (25%); or
 - (ii) the taxpayer's liability for the utility receipts tax imposed under IC 6-2.3 for the taxable year.

STEP TWO: Multiply the STEP ONE amount by the percentage of Indiana coal used in the taxpayer's integrated coal gasification powerplant in the taxable year for which the annual installment of the credit is allowed.

(c) If the credit allowed by this chapter is available to a member of an affiliated group of corporations filing a consolidated return under IC 6-2.3-6-5 or IC 6-3-4-14, the credit shall be applied against the state tax liability of the affiliated group.

Sec. 17. A person that proposes to place a new integrated coal gasification powerplant into service may apply to the corporation before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The corporation shall prescribe the form of the application.

Sec. 18. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that the taxpayer's proposed investment satisfies the requirements of this chapter.

Sec. 19. (a) The corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

- (1) A detailed description of the project that is the subject of the agreement.
- (2) The first taxable year for which the credit may be claimed.
- (3) The maximum tax credit amount that will be allowed for each taxable year.
- (4) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.
- (5) A requirement that the taxpayer shall pay an average wage to its employees at the integrated coal gasification powerplant, other than highly compensated employees, in each taxable year that a tax credit is available that equals at least one hundred twenty-five percent (125%) of the

average county wage in the county in which the integrated coal gasification powerplant is located.

(6) A requirement that the taxpayer will maintain during the term of the tax credit a total payroll paid to Indiana residents that is at least equal to the payroll level that existed before the qualified investment was made.

(7) A requirement that the taxpayer shall use Indiana coal at the taxpayer's integrated coal gasification powerplant.

(8) A requirement that the taxpayer obtain from the commission a determination under IC 8-1-8.5-2 that public convenience and necessity require, or will require, the construction of the taxpayer's integrated coal gasification powerplant.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit awarded under this chapter. The corporation shall annually determine whether the taxpayer is in compliance with the agreement. If the corporation determines that the taxpayer is in compliance, the corporation shall issue a certificate of compliance to the taxpayer.

Sec. 20. If a pass through entity does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) in the case of a pass through entity described in:
 - (i) section 9(1), 9(2), 9(3), or 9(4) of this chapter, the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled; and
 - (ii) section 9(5) or 9(6) of this chapter, the relative percentage of the corporation's patronage dividends allocable to the member for the taxable year.

Sec. 21. To receive the credit awarded by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department a copy of the commission's determination required under section 19 of this chapter, a copy of the taxpayer's certificate of compliance issued under section 19 of this chapter, and all information that the department determines is necessary for the calculation of the credit provided by this chapter."

Delete pages 8 through 10.

Page 11, delete lines 1 through 4.

Page 11, line 12, delete "IC 5-29-6-3," and insert "IC 5-28-6-3,".

Renumber all SECTIONS consecutively.

(Reference is to SB 378 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 22, nays 1.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 574, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-6-9.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 9.5. Vanderburgh County Supplemental Auto Rental Excise Tax

Sec. 1. This chapter applies to Vanderburgh County.

Sec. 2. As used in this chapter, "department" refers to the department of state revenue.

Sec. 3. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5.

Sec. 4. As used in this chapter, "passenger motor vehicle" has the meaning set forth in IC 9-13-2-123(a).

Sec. 5. As used in this chapter, "person" has the meaning set forth in IC 6-2.5-1-3.

Sec. 6. As used in this chapter, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.

Sec. 7. (a) The legislative body of the most populous city in the county may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2036.

(b) The county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle is two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) If the city legislative body adopts an ordinance under subsection (a), the city legislative body shall immediately send a certified copy of the ordinance to the commissioner of the department.

(d) If the city legislative body adopts an ordinance under subsection (a) before June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the city legislative body adopts an ordinance under subsection (a) on or after June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

Sec. 8. (a) The rental of a passenger motor vehicle by a funeral director licensed under IC 25-15 is exempt from the county supplemental auto rental excise tax if the rental is part of the services provided by the funeral director for a funeral.

(b) The temporary rental of a passenger motor vehicle is exempt from the county supplemental auto rental excise tax if the rental is:

- (1) made or reimbursed under a contract or agreement:
 - (A) between a provider and a person;
 - (B) given for consideration over and above the lease or purchase price of a motor vehicle; and
 - (C) that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear;
- (2) made or reimbursed under a contract for mechanical breakdown insurance;
- (3) made or reimbursed under a contract for automobile collision insurance or automobile comprehensive insurance that covers the temporary lease of a vehicle to a person after the person's vehicle is damaged or destroyed in a collision; or
- (4) otherwise provided to a person as a replacement vehicle:
 - (A) while the person's vehicle is repaired or serviced due to a defect in materials or skill of work, normal wear and tear, or other damage; or
 - (B) until the person permanently replaces a vehicle that has been destroyed.

Sec. 9. A person that rents a passenger motor vehicle is liable for the county supplemental auto rental excise tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. The retail merchant shall collect the tax as an agent for the state.

Sec. 10. (a) Except as otherwise provided in this section, the county supplemental auto rental excise tax shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(b) Each retail merchant filing a return for the county supplemental auto rental excise tax shall indicate in the return:

- (1) all locations in the county where the retail merchant collected county supplemental auto rental excise taxes; and
- (2) the amount of county supplemental auto rental excise taxes collected at each location.

(c) The return to be filed for the payment of the county supplemental auto rental excise tax may be:

- (1) a separate return;
- (2) combined with the return filed for the payment of the

auto rental excise tax under IC 6-6-9; or

(3) combined with the return filed for the payment of the state gross retail tax; as prescribed by the department.

Sec. 11. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the fiscal officer of the most populous city in the county upon warrants issued by the auditor of state.

Sec. 12. If a tax is imposed under section 7 of this chapter, the fiscal officer of the most populous city in the county shall deposit all amounts received under this chapter in the tourism capital improvement fund established under IC 6-9-2.5-7.5 to be used only for the purposes of the tourism capital improvement fund.

Sec. 13. This chapter expires January 1, 2036.

SECTION 2. IC 6-9-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The revenue received by the county treasurer under this chapter shall be allocated to the Lake County convention and visitor bureau, Indiana University-Northwest, Purdue University-Calumet, municipal public safety departments, municipal physical and economic development divisions, and the cities and towns in the county as provided in this section. Subsections (b) through (g) do not apply to the distribution of revenue received under section 1 of this chapter from hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or accommodations built or refurbished after June 30, 1993, that are located in the largest city of the county.

(b) The Lake County convention and visitor bureau shall establish a convention, tourism, and visitor promotion fund (**referred to in this chapter as the "promotion fund"**). The county treasurer shall transfer to the Lake County convention and visitor bureau for deposit in **this the promotion fund** thirty-five percent (35%) of the first one million two hundred thousand dollars (\$1,200,000) of revenue received **from the tax imposed** under this chapter in each year. **The promotion fund consists of:**

- (1) money in the promotion fund on June 30, 2005;
- (2) revenue deposited in the promotion fund under this subsection after June 30, 2005; and
- (3) investment income earned on the promotion fund's assets.

Money in ~~this the~~ **the promotion fund** may be expended only to promote and encourage conventions, trade shows, special events, recreation, and visitors within the county. Money may be paid from the **promotion fund** by claim in the same manner as municipalities may pay claims under IC 5-11-10-1.6.

(c) This subsection applies to the first one million two hundred thousand dollars (\$1,200,000) of revenue received **from the tax imposed** under this chapter in each year. During each year, the county treasurer shall transfer to Indiana University-Northwest forty-four and thirty-three hundredths percent (44.33%) of the revenue received under this chapter for that year to be used as follows:

- (1) Seventy-five percent (75%) of the revenue received under this subsection may be used only for the university's medical education programs.
- (2) Twenty-five percent (25%) of the revenue received under this subsection may be used only for the university's allied health education programs.

The amount for each year shall be transferred in four (4) approximately equal quarterly installments.

(d) This subsection applies to the first one million two hundred thousand dollars (\$1,200,000) of revenue received **from the tax imposed** under this chapter in each year. During each year, the county treasurer shall allocate among the cities and towns throughout the county nine percent (9%) of the revenue received under this chapter for that year. The amount of each city's or town's allocation is as follows:

- (1) Ten percent (10%) of the revenue covered by this subsection shall be transferred to cities having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).
- (2) Ten percent (10%) of the revenue covered by this subsection shall be transferred to cities having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) Ten percent (10%) of the revenue covered by this subsection shall be transferred to cities having a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

(4) Five percent (5%) of the revenue covered by this subsection shall be transferred to each town and each city not receiving a transfer under subdivisions (1) through (3).

The money transferred under this subsection may be used only for economic development projects. The county treasurer shall make the transfers on or before December 1 of each year.

(e) This subsection applies to the first one million two hundred thousand dollars (\$1,200,000) of revenue received **from the tax imposed** under this chapter in each year. During each year, the county treasurer shall transfer to Purdue University-Calumet nine percent (9%) of the revenue received under this chapter for that year. The money received by Purdue University-Calumet may be used by the university only for nursing education programs.

(f) This subsection applies to the first one million two hundred thousand dollars (\$1,200,000) of revenue received **from the tax imposed** under this chapter in each year. During each year, the county treasurer shall transfer two and sixty-seven hundredths percent (2.67%) of the revenue received under this chapter for that year to the following cities:

(1) Fifty percent (50%) of the revenue covered by this subsection shall be transferred to cities having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) Fifty percent (50%) of the revenue covered by this subsection shall be transferred to cities having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

Money transferred under this subsection may be used only for convention facilities located within the city. In addition, the money may be used only for facility marketing, sales, and public relations programs. Money transferred under this subsection may not be used for salaries, facility operating costs, or capital expenditures related to the convention facilities. The county treasurer shall make the transfers on or before December 1 of each year.

(g) This subsection applies to the revenue received **from the tax imposed** under this chapter in each year that exceeds one million two hundred thousand dollars (\$1,200,000). During each year, the county treasurer shall distribute money in the **promotion** fund as follows:

(1) Eighty-five percent (85%) of the revenue covered by this subsection shall be deposited in the convention, tourism, and visitor promotion fund. The money deposited in the fund under this subdivision may be used only for the purposes for which other money in the fund may be used.

(2) Five percent (5%) of the revenue covered by this subsection shall be transferred to Purdue University-Calumet. The money received by Purdue University-Calumet under this subdivision may be used by the university only for nursing education programs.

(3) Five percent (5%) of the revenue covered by this subsection shall be transferred to Indiana University-Northwest. The money received by Indiana University-Northwest under this subdivision may be used only for the university's medical education programs.

(4) Five percent (5%) of the revenue covered by this subsection shall be transferred to Indiana University-Northwest. The money received by Indiana University-Northwest under this subdivision may be used only for the university's allied health education programs.

(h) The county treasurer may estimate the amount that will be received under this chapter for the year to determine the amount to be transferred under this section.

(i) This subsection applies only to the distribution of revenue received **from the tax imposed** under section 1 of this chapter from hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or accommodations built or refurbished after June 30, 1993, that are located in the largest city of the county. During each year, the county treasurer shall transfer:

(1) seventy-five percent (75%) of the revenues under this subsection to the department of public safety; and

(2) twenty-five percent (25%) of the revenues under this subsection to the division of physical and economic development;

of the largest city of the county.

(j) The Lake County convention and visitor bureau shall assist the county treasurer, as needed, with the calculation of the amounts that must be deposited and transferred under this section.

SECTION 3. IC 6-9-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) For purposes of this section, the size of a political subdivision is based on the population determined in the last federal decennial census.

(b) A convention and visitor bureau having fifteen (15) members is created to promote the development and growth of the convention, tourism, and visitor industry in the county.

(c) The executives (as defined by IC 36-1-2-5) of the eight (8) largest municipalities (as defined by IC 36-1-2-11) in the county shall each appoint one (1) member to the bureau. The legislative body (as defined in IC 36-1-2-9) of the two (2) largest municipalities in the county shall each appoint one (1) member to the bureau.

(d) The county council shall appoint two (2) members to the bureau. One (1) of the appointees must be a resident of the largest township in the county, and one (1) of the appointees must be a resident of the second largest township in the county.

(e) The county commissioners shall appoint two (2) members to the bureau. Each appointee must be a resident of the fifth, sixth, seventh, eighth, ninth, tenth, or eleventh largest township in the county. These appointees must be residents of different townships.

(f) The lieutenant governor shall appoint one (1) member to the bureau.

(g) One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the highest number of votes in the county in the last preceding election for the office of secretary of state. One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the second highest number of votes in the county in the election for that office. No appointee under this section may hold an elected or appointed political office while he serves on the bureau.

(h) In making appointments under this section, the appointing authority shall give sole consideration to individuals who shall be knowledgeable and interested in at least one (1) of the following businesses in the county:

- (1) Hotel.
- (2) Motel.
- (3) Restaurant.
- (4) Travel.
- (5) Transportation.
- (6) Convention.
- (7) Trade show.

(i) All terms of office of bureau members begin on July 1. ~~Initial appointments of the county council are for one (1) year terms; initial appointments of the county commissioners are for two (2) year terms; initial appointments of the municipal executives and legislative bodies are for three (3) year terms; with all subsequent appointments for three (3) year terms. All appointments of the lieutenant governor are for three (3) year terms. Members of the bureau serve terms of three (3) years.~~ A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an appointment is not made before July 16 or a vacancy is not filled within thirty (30) days, the member appointed by the lieutenant governor under subsection (f) shall appoint a qualified person.

(j) A member of the bureau may be removed for cause by his appointing authority.

(k) Members of the bureau may not receive a salary. However, bureau members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

(l) Each bureau member, before entering his duties, shall take an oath of office in the usual form, to be endorsed upon his certificate of appointment and promptly filed with the clerk of the circuit court of the county.

(m) The bureau shall meet after July 1 each year for the purpose of organization. The bureau shall elect a chairman from its members.

The bureau shall also elect from its members a vice chairman, a secretary, and a treasurer. The members serving in those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve until their successors are elected and qualified. A majority of the bureau constitutes a quorum, and the concurrence of a majority of those present is necessary to authorize any action.

(n) If the county and one (1) or more adjoining counties desire to establish a joint bureau, the counties shall enter into an agreement under IC 36-1-7. In the absence of such an agreement, the bureau may not expend funds to promote activities in any other county.

SECTION 4. IC 6-9-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The bureau may:

- (1) accept and use gifts, grants, and contributions from any public or private source, under terms and conditions that the bureau considers necessary and desirable;
- (2) sue and be sued;
- (3) enter into contracts and agreements;
- (4) make rules necessary for the conduct of its business and the accomplishment of its purposes;
- (5) receive and approve, alter, or reject requests and proposals for funding by corporations qualified under subdivision (6);
- (6) after its approval of a proposal, transfer money from the ~~promotion fund established under section 2 of this chapter or from the alternate revenue fund~~ to any Indiana ~~not-for-profit~~ **nonprofit** corporation to promote and encourage conventions, trade shows, visitors, or special events in the county;
- (7) require financial or other reports from any corporation that receives funds under this chapter;
- (8) enter into leases under IC 36-1-10 for the construction, acquisition, and equipping of a visitor center; and
- (9) exercise the power of eminent domain to acquire property to promote and encourage conventions, trade shows, special events, recreation, and visitors within the county.

(b) All expenses of the bureau shall be paid from the ~~promotion fund established under section 2 of this chapter. Before September 1 of each year, the bureau shall annually prepare a budget for expenditures from the promotion fund during the following year, taking into consideration the recommendations made by a corporation qualified under subsection (a)(6). and submit it to the county council for its review and approval. After its approval of the budget, the county council shall make an appropriation from the fund in accordance with that budget.~~

(c) All money ~~coming into possession of the bureau in the promotion fund~~ shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money ~~coming into possession of the bureau in the promotion fund~~ is subject to audit and supervision by the state board of accounts.

SECTION 5. IC 6-9-2-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.3. (a) The Lake County convention and visitor bureau shall establish a convention, tourism, and visitor promotion alternate revenue fund (referred to in this chapter as the "alternate revenue fund"). The bureau may deposit in the alternate revenue fund all money received by the bureau after June 30, 2005, that is not required to be deposited in the promotion fund under section 2 of this chapter, including appropriations, gifts, grants, membership dues, and contributions from any public or private source.

(b) The bureau may, without appropriation by the county council, expend money from the alternate revenue fund to promote and encourage conventions, trade shows, visitors, special events, sporting events, and exhibitions in the county. Money may be paid from the alternate revenue fund by claim in the same manner as municipalities may pay claims under IC 5-11-10-1.6.

(c) All money in the alternate revenue fund shall be deposited, held, secured, invested, and paid in accordance with statutes relating to the handling of public funds. The handling and expenditure of money in the alternate revenue fund is subject to audit and supervision by the state board of accounts.

(d) Money derived from the taxes imposed under IC 4-33-12 and IC 4-33-13 may not be transferred to the alternate revenue

fund.

SECTION 6. IC 6-9-2-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. The bureau may enter into an agreement under which amounts deposited in, or to be deposited in, the ~~convention, tourism, and visitor promotion fund under section 2 of this chapter or the alternate revenue fund, or both~~, are pledged to payment of obligations, including leases entered into under IC 36-1-10, issued to finance the construction, acquisition, and equipping of a visitor center to promote and encourage conventions, trade shows, special events, recreation, and visitors within the county.

SECTION 7. IC 6-9-2-4.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.9. With respect to:

- (1) bonds, leases, or other obligations to which the bureau has pledged revenues under this chapter; and
- (2) bonds issued by a lessor that are payable from lease rentals; the general assembly covenants with the bureau and the purchasers or owners of the bonds or other obligations described in this section that this chapter will not be repealed or amended in any manner that will adversely affect the collection of the tax imposed under this chapter or the money deposited in the ~~convention, tourism, and visitor promotion fund or the alternate revenue fund~~ as long as the principal of or interest on any bonds, or the lease rentals due under any lease, are unpaid.

SECTION 8. IC 6-9-2-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **Employees of the convention and visitor bureau created under section 3 of this chapter may participate in the group health insurance, disability insurance, and life insurance programs established:**

(1) by the county government of the county described in section 1 of this chapter; and

(2) for the employees of the convention and visitor bureau."

Page 2, delete lines 11 through 42, begin a new paragraph and insert:

"SECTION 10. IC 6-9-2.5-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. (a) The county treasurer shall establish a tourism capital improvement fund.

(b) The county treasurer shall deposit money in the tourism capital improvement fund as follows:

- (1) Before January 1, 2000, if the rate set under section 6 of this chapter is greater than two percent (2%), the county treasurer shall deposit in the tourism capital improvement fund an amount equal to the money received under section 6 of this chapter minus the amount generated by a two percent (2%) rate.
- (2) After December 31, 1999, and before January 1, 2003, the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate.
- (3) After December 31, 2002, and before January 1, ~~2006~~, **2010**, the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a one and one-half percent (1.5%) rate.
- (4) After December 31, ~~2005~~, **2009**, the county treasurer shall deposit in the tourism capital improvement fund the amount of money received under section 6 of this chapter that is generated by a ~~three two and one-half percent (3.5%)~~ **(2.5%)** rate.

(c) The commission may transfer money in the tourism capital improvement fund to:

- (1) the county government, a city government, or a separate body corporate and politic in a county described in section 1 of this chapter; or
- (2) any Indiana nonprofit corporation;

for the purpose of making capital improvements in the county that promote conventions, tourism, or recreation. The commission may transfer money under this section only after approving the transfer. Transfers shall be made quarterly or less frequently under this section.

SECTION 11. IC 6-9-2.5-7.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.7. (a) The county treasurer shall establish a convention center operating fund.

(b) **Before January 1, 2010**, the county treasurer shall deposit in the convention center operating fund the amount of money received

under section 6 of this chapter that is generated by a two percent (2%) rate. Money in the fund must be expended for the operating expenses of a convention center.

(c) This section expires January 1, 2006.

(c) After December 31, 2009, the county treasurer shall deposit in the convention center operating fund the amount of money received under section 6 of this chapter that is generated by a one percent (1%) rate. Money in the fund must be expended for the operating expenses of a convention center.

SECTION 12. [EFFECTIVE UPON PASSAGE] Actions taken before the effective date of this act that would have been valid under IC 6-9-2-10, as added by this act, are legalized and validated.

SECTION 13. An emergency is declared for this act."

Delete page 3.

Renumber all SECTIONS consecutively.

(Reference is to SB 574 as printed February 4, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 16, nays 3.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 578, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 16, line 13, delete "such" and insert "the action".

Page 24, line 24, strike "the".

Page 25, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 42. IC 4-4-28-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) Each community development corporation shall annually provide the ~~department of commerce~~ **Indiana housing finance authority** with information needed to determine:

- (1) the number of accounts administered by the community development corporation;
- (2) the length of time each account under subdivision (1) has been established; and
- (3) the amount of money an individual has deposited into each account under subdivision (1) during the preceding twelve (12) months.

(b) The ~~department of commerce~~ **Indiana housing finance authority** shall use the information provided under subsection (a) to deposit the correct amount of money into each account as provided in section 12 of this chapter.

SECTION 43. IC 4-4-28-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The ~~department of commerce~~ **Indiana housing finance authority** shall allocate, for each account that has been established after June 30, 2001, for not more than four (4) years, including any time in which an individual held an individual development account under this chapter before July 1, 2001, three dollars (\$3) for each one dollar (\$1) an individual deposited into the individual's account during the preceding twelve (12) months. However, the ~~department's authority's~~ allocation under this subsection may not exceed nine hundred dollars (\$900) for each account described in this subsection.

(b) Not later than June 30 of each year, the ~~department of commerce~~ **Indiana housing finance authority** shall deposit into each account established under this chapter the appropriate amount of money determined under this section. However, if the individual deposits the maximum amount allowed under this chapter on or before December 31 of each year, the individual may request in writing that the ~~department of commerce~~ **authority** allocate and deposit the matched funds under subsection (a) into the individual's account not later than forty-five (45) days after the ~~department of commerce~~ **authority** receives the written request.

(c) Money from a federal block grant program under Title IV-A of the federal Social Security Act may be used by the state to provide money under this section for deposit into an account held by an individual who receives assistance under IC 12-14-2.

SECTION 44. IC 4-4-28-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) An individual must request and receive authorization from the community development corporation that administers the individual's account before withdrawing money from the account for any purpose.

(b) An individual who is denied authorization to withdraw money under subsection (a) may appeal the community development corporation's decision to the ~~department of commerce~~ **Indiana housing finance authority** under rules adopted by the ~~department of commerce~~ **authority** under IC 4-22-2.

SECTION 45. IC 4-4-28-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) Each community development corporation shall annually:

- (1) evaluate the individual development accounts administered by the community development corporation; and
- (2) submit a report containing the evaluation information to the ~~department of commerce~~ **Indiana housing finance authority**.

(b) Two (2) or more community development corporations may work together in carrying out the purposes of this chapter.

SECTION 46. IC 4-4-28-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. The ~~department of commerce~~ **Indiana housing finance authority** may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 47. IC 4-6-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. The unit shall cooperate with the ~~department of commerce~~ **Indiana housing authority** in the development and implementation of the home ownership education programs established under ~~IC 4-4-3-8(b)(15)~~ **IC 5-20-1-4(g)**."

Page 27, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 53. IC 4-13.5-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The commission may:

- (1) adopt and alter an official seal;
- (2) adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business and prescribe rules and policies in connection with the performance of its functions and duties;
- (3) (1) accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with any attached conditions;
- (4) (2) acquire real property, or any interest in real property, by lease, conveyance (including purchase) in lieu of foreclosure, or foreclosure, own, manage, operate, hold, clear, improve, and construct facilities on real property, and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber real property, or interests in real property or facilities on real property, if the use is necessary or appropriate to the purposes of the commission;
- (5) (3) procure insurance against any loss in connection with its operations in amounts, and from insurers, as it considers necessary or desirable;
- (6) (4) borrow funds as set forth in IC 4-13.5-4 and issue revenue bonds of the commission, payable solely from revenues, as set forth in IC 4-13.5-4, or from the proceeds of bonds issued under this article and earnings on bonds, or both, for the purpose of carrying out its purposes under this article, including paying all or any part of the cost of acquisition or construction of any one (1) or more facilities, or for the purpose of refunding any other bonds or loan contracts of the commission;
- (7) (5) establish reserves or sinking funds from the proceeds of the sale of bonds or from other funds, or both, to secure the payment of the bonds;
- (8) (6) invest any funds held in reserve or in sinking fund accounts or any money not required for immediate disbursement, in obligations of the state, the United States, or their agencies or instrumentalities, and other obligors as may be permitted under the terms of any resolution authorizing the issuance of the commission's bonds or other obligations;
- (9) (7) include in any borrowing or issue amounts considered

necessary by the commission to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time after the period of construction or, if the facility is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees, and other expenses necessary or incident to the borrowing or issue;

~~(10) employ fiscal consultants, engineers, bond counsel, other special counsel (with the approval of the attorney general), real estate counselors, appraisers, architectural historians, and other consultants, employees, and agents as required in the judgment of the commission; and fix and pay their compensation from funds available to the commission for the payment of compensation;~~

~~(11)~~ (8) make, execute, and effectuate contracts, agreements, or other documents with any governmental agency or any person, corporation, limited liability company, association, partnership, or other organization or entity necessary or convenient to accomplish the purposes of this article;

~~(12)~~ (9) acquire in the name of the commission by the exercise of the right of condemnation, in the manner provided in this section, public or private lands, or rights in lands, rights-of-way, property, rights, easements, and interests, as it considers necessary for carrying out this article; and

~~(13)~~ (10) do any and all acts and things necessary, proper, or convenient to carry out this article.

(b) The commission may provide for facilities for state agencies or branches of state government if the general assembly, by statute:

(1) finds that the state needs renovation, refurbishing, or alteration of existing facilities or construction of additional facilities; and

(2) authorizes the commission to provide for the facilities.

In providing for the facilities, the commission shall proceed under this article.

(c) If the commission is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, it may proceed to procure the condemnation of the property under IC 32-24-1. The commission may not institute a proceeding until it has adopted a resolution that:

(1) describes the real property sought to be acquired and the purpose for which the real property is to be used;

(2) declares that the public interest and necessity require the acquisition by the commission of the property involved; and

(3) sets out any other facts that the commission considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition and shall be referred to the attorney general for action, in the name of the commission, in the circuit or superior court of the county in which the real property is located.

(d) The title to all property acquired in any manner by the commission shall be held in the name of the commission."

Page 44, line 4, strike "by rule or policy".

Page 44, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 71. IC 5-1.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) There is established a board of directors to govern the bank. The powers of the bank are vested in this board.

(b) The board is composed of:

(1) the treasurer of state, who shall be the chairman ex officio;

(2) the ~~director of the department of financial institutions;~~ **public finance director appointed under IC 4-4-11-9, who shall be the director ex officio;** and

(3) five (5) directors appointed by the governor.

(c) Each of the five (5) directors appointed by the governor:

(1) must be a resident of Indiana;

(2) must have substantial expertise in the buying, selling, and trading of municipal securities, in municipal administration or in public facilities management;

(3) serves for a term of three (3) years and until his successor is appointed and qualified;

(4) is eligible for reappointment;

(5) is entitled to receive the same minimum salary per diem as

is provided in IC 4-10-11-2.1(b) while performing his duties. Such a director is also entitled to the same reimbursement for traveling expenses and other expenses, actually incurred in connection with his duties as is provided in the state travel policies and procedures, established by the department of administration and approved by the state budget agency; and (6) may be removed by the governor for cause.

(d) Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the governor for the unexpired term only."

Page 46, line 11, delete "forty-five (45)" and insert "twenty-one (21)".

Page 46, line 15, delete "forty-five (45)" and insert "twenty-one (21)".

Page 47, line 6, delete "forty-five (45)" and insert "twenty-one (21)".

Page 47, line 10, delete "forty-five (45)" and insert "twenty-one (21)".

Page 64, between lines 20 and 21, begin a new paragraph and insert:

"(g) **Beginning July 1, 2005, the authority shall identify, promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the authority using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the authority in implementing this subsection.**"

Page 66, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 87. IC 5-20-1-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) **The home ownership education account within the state general fund is established to support the home ownership education programs established under section 4(g) of this chapter. The account is administered by the authority.**

(b) **The home ownership education account consists of fees collected under IC 24-9-9.**

(c) **The expenses of administering the home ownership education account shall be paid from money in the fund.**

(d) **The treasurer of state shall invest the money in the home ownership education account not currently needed to meet the obligations of the account in the same manner as other public money may be invested."**

Page 66, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 91. IC 6-3.1-9-1, AS AMENDED BY P.L.4-2005, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter:

"Business firm" means any business entity authorized to do business in the state of Indiana that has state tax liability.

"Community services" means any type of counseling and advice, emergency assistance, medical care, recreational facilities, housing facilities, or economic development assistance to individuals, groups, or neighborhood organizations in an economically disadvantaged area.

"Crime prevention" means any activity which aids in the reduction of crime in an economically disadvantaged area.

"Economically disadvantaged area" means an enterprise zone, or any area in Indiana that is certified as an economically disadvantaged area by the Indiana ~~economic development corporation~~ **housing finance authority** after consultation with the community services agency. The certification shall be made on the basis of current indices of social and economic conditions, which shall include but not be limited to the median per capita income of the area in relation to the median per capita income of the state or standard metropolitan statistical area in which the area is located.

"Education" means any type of scholastic instruction or scholarship assistance to an individual who resides in an economically disadvantaged area that enables the individual to prepare for better life opportunities.

"Enterprise zone" means an enterprise zone created under IC 5-28-15.

"Job training" means any type of instruction to an individual who

resides in an economically disadvantaged area that enables the individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment.

"Neighborhood assistance" means either:

- (1) furnishing financial assistance, labor, material, and technical advice to aid in the physical or economic improvement of any part or all of an economically disadvantaged area; or
- (2) furnishing technical advice to promote higher employment in any neighborhood in Indiana.

"Neighborhood organization" means any organization, including but not limited to a nonprofit development corporation:

- (1) performing community services in an economically disadvantaged area; and
- (2) holding a ruling:
 - (A) from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of the Internal Revenue Code; and
 - (B) from the department of state revenue that the organization is exempt from income taxation under IC 6-2.5-5-21.

"Person" means any individual subject to Indiana gross or adjusted gross income tax.

"State fiscal year" means a twelve (12) month period beginning on July 1 and ending on June 30.

"State tax liability" means the taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax); and
- (2) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

"Tax credit" means a deduction from any tax otherwise due and payable under IC 6-3 or IC 6-5.5.

SECTION 92. IC 6-3.1-9-2, AS AMENDED BY P.L.4-2005, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A business firm or a person who contributes to a neighborhood organization or who engages in the activities of providing neighborhood assistance, job training or education for individuals not employed by the business firm or person, or for community services or crime prevention in an economically disadvantaged area shall receive a tax credit as provided in section 3 of this chapter if the ~~board of the Indiana economic development corporation~~ **housing finance authority** approves the proposal of the business firm or person, setting forth the program to be conducted, the area selected, the estimated amount to be invested in the program, and the plans for implementing the program.

(b) The ~~board of the Indiana economic development corporation;~~ **housing finance authority**, after consultation with the community services agency and the commissioner of revenue, may adopt rules for the approval or disapproval of these proposals.

SECTION 93. IC 6-3.1-9-4, AS AMENDED BY P.L.4-2005, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Any business firm or person which desires to claim a tax credit as provided in this chapter shall file with the department, in the form that the department may prescribe, an application stating the amount of the contribution or investment which it proposes to make which would qualify for a tax credit, and the amount sought to be claimed as a credit. The application shall include a certificate evidencing approval of the contribution or program by the ~~board of the Indiana economic development corporation;~~ **housing finance authority**.

(b) The ~~board of the Indiana economic development corporation~~ **housing finance authority** shall give priority in issuing certificates to applicants whose contributions or programs directly benefit enterprise zones.

(c) The department shall promptly notify an applicant whether, or the extent to which, the tax credit is allowable in the state fiscal year in which the application is filed, as provided in section 5 of this chapter. If the credit is allowable in that state fiscal year, the applicant shall within thirty (30) days after receipt of the notice file with the

department of state revenue a statement, in the form and accompanied by the proof of payment as the department may prescribe, setting forth that the amount to be claimed as a credit under this chapter has been paid to an organization for an approved program or purpose, or permanently set aside in a special account to be used solely for an approved program or purpose.

(d) The department may disallow any credit claimed under this chapter for which the statement or proof of payment is not filed within the thirty (30) day period."

Page 72, line 23, after "operation" insert ",".

Page 72, line 34, after "1965" insert ",".

Page 72, line 36, after "1977" insert ",".

Page 72, line 37, after "1979" insert ",".

Page 73, line 31, after "thousand" delete ",".

Page 73, line 39, strike "his" and insert "**the member's**".

Page 73, line 40, strike "his" and insert "**the member's**".

Page 75, line 16, after "books" insert ",".

Page 90, line 24, after "assistance" insert ",".

Page 117, line 20, after "Evaluate" insert "**or cause to be evaluated**".

Page 119, line 26, delete "or".

Page 126, between lines 4 and 5, begin a new paragraph and insert: "SECTION 183. IC 14-14-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. The commission may do the following:

(1) Adopt bylaws for the regulation of the commission's affairs and the conduct of the commission's business.

(2) Adopt an official seal that may not be the seal of the state.

(3) Maintain a principal office at the place within Indiana the commission designates.

(4) Sue and be sued and plead and be impleaded in the commission's own name. All process shall be served on the commission by delivering a copy:

(A) to the principal office of the commission with the person in charge or with the secretary of the commission; and

(B) to the office of the attorney general.

(5) (1) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's duties and the execution of the commission's powers under this chapter. If the cost of a contract for construction or for the purchase of equipment, materials, or supplies involves an expenditure of more than twenty thousand dollars (\$20,000), the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in Marion County, Indiana, and in other publications if the commission determines. The notice must state the general character of the work and the general character of the materials to be furnished, the place where the plans and specifications may be examined, and the time and place of receiving bids. Each bid must contain the full name of every person or company interested in the bid and must be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of the bidder's proposal secured. The commission may reject any and all bids. A bond with good and sufficient surety approved by the commission is required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

(6) (2) Employ employees, fix their compensation, and define their duties.

(7) (3) Contract for the following:

(A) Services, including services of engineers, architects, accountants, attorneys, financial advisers, project or construction managers, consultants, and experts as well as other contract services.

(B) Construction.

(C) Materials.

(D) Supplies.

(8) (4) Conduct studies of the financial feasibility of proposed park projects.

(9) (5) Use the services of professional and other personnel employed by a department or an agency of the state for

purposes of studying the feasibility of or designing, constructing, or maintaining a park project.

~~(10)~~ (6) Receive and accept:

(A) from a federal agency grants for or in aid of the acquisition, construction, improvement, or development of a park project; and

(B) aid or contributions from any source of money, property, labor, or other things of value;

to be held, used, and applied only for the purposes, consistent with the purposes of this chapter, for which the grants and contributions may be made.

~~(11)~~ (7) Provide coverage for the commission's employees under IC 27-7-2 and IC 22-4.

~~(12)~~ (8) Do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

~~(13)~~ (9) Hold, use, administer, and expend the money appropriated or transferred to the commission, administer a general operating fund, the revolving fund created by this chapter, create and administer any other fund considered desirable, and enter into a covenant or pledge with respect to a fund created.

~~(14)~~ (10) Accept advances or grants from a state agency or fund authorized to make advances or grants and, for advances, enter into agreements concerning the repayment of the advance and repay the advances."

Page 130, line 8, delete "." and insert ";".

Page 131, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 197. IC 20-12-63-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The authority shall have the **following** functions and powers: ~~set forth in this section:~~

~~(1) The authority may adopt rules and bylaws for the regulation of the authority's business.~~

~~(2) The authority may adopt an official seal and alter the official seal.~~

~~(3) The authority may maintain an office at a place or places designated by the authority.~~

~~(4) The authority may sue and be sued, plead and be impleaded in the authority's own name.~~

~~(5)~~ (1) The authority may determine the location and character of any project to be financed under this chapter. The authority may construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease as lessee or lessor, regulate any project, or enter into contracts for any purpose stated in this subdivision. The authority may designate a private institution of higher education as the authority's agent to carry out the authority of this subsection.

~~(6)~~ (2) The authority may issue bonds or fund and refund bonds as provided in this chapter.

~~(7)~~ (3) The authority may require that the rates, rents, fees, or charges established by a private institution of higher education are sufficient to discharge the institution's obligations to the authority but shall have no other jurisdiction over such rates, rents, fees, or charges.

~~(8)~~ (4) The authority may establish rules for the use of a project or any portion thereof and designate a private institution of higher education as the authority's agent to establish rules for the use of a project undertaken for that institution.

~~(9)~~ (5) The authority may employ consulting engineers, architects, attorneys, accountants, trustees, construction and financial experts, superintendents, managers, and such other employees and agents as may be necessary in the authority's judgment, and fix their compensation.

~~(10)~~ (6) The authority may receive and accept from any source loans, contributions, or grants for or in aid of the construction or funding of a project or any portion thereof in either money, property, labor, or other things of value and, when required, use such funds, property, or labor only for the purposes for which the money, property, or labor was loaned, contributed, or granted.

~~(11)~~ (7) The authority may make loans to any private institution of higher education for the cost of a project, including the

establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses in accordance with an agreement between the authority and the private institution of higher education. No such loan may exceed the total cost of the project as determined by such institution and approved by the authority.

~~(12)~~ (8) The authority may make loans to a private institution of higher education to refund outstanding obligations or advances issued, made, or given by such institution for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses. In addition, the authority may issue bonds and make loans to a private institution of higher education to refinance indebtedness incurred or to reimburse advances made for projects undertaken prior to the date of the bond issue whenever the authority finds that such financing is in the public interest and either:

(A) alleviates a financial hardship upon the private institution of higher education;

(B) results in a lesser cost of education; or

(C) enables the private institution of higher education to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

~~(13)~~ (9) The authority may charge to and apportion among private institutions of higher education the authority's administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

~~(14)~~ (10) The authority may, for financing purposes, combine a project or projects and some or all future projects of any private institution or institutions of higher education provided that:

(A) the authority obtains the consent of all of the private institutions of higher education which are involved, or when financing loans for the funding of liability or other loss insurance reserves or for the providing of those reserves or other capital to be contributed to a risk retention group, the authority obtains the consent of all of the eligible members that are involved; and

(B) the money set aside in any fund or funds pledged for any series of bonds or issue of bonds are held for the sole benefit of such series or issue separate and apart from the money pledged for any other series or issue of bonds of the authority.

To facilitate the combining of projects, bonds may be issued in series under one (1) or more resolutions or trust agreements and be fully open end, thus providing for unlimited issuance of additional series, or partially open end, limited as to additional series, all in the discretion of the authority. Notwithstanding any provision of this chapter to the contrary, the authority may permit a private institution of higher education to substitute one (1) or more educational facilities of similar value (as determined by an independent appraiser satisfactory to the authority) as security for any educational facility financed under this chapter on such terms and conditions as the authority may prescribe.

~~(15)~~ (11) The authority may mortgage all or any portion of any project and any other educational facilities conveyed to the authority for such purpose and the site or sites thereof, whether presently owned or subsequently acquired, for the benefit of the holders of the bonds of the authority issued to finance such project or any portion thereof or issued to refund or refinance outstanding indebtedness of a private institution of higher education as permitted by this chapter.

~~(16)~~ (12) The authority may join in a risk retention group with corporations (as defined in IC 20-12-6-1) or any private institution of higher education.

~~(17)~~ (13) The authority may do all things necessary to carry out the purposes of this chapter."

Page 132, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 200. IC 20-12-63-26 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. (a) Notwithstanding any other provision of this chapter to the contrary, the authority may:

- (1) finance the cost of an educational facility or refund outstanding indebtedness of a private institution of higher education, as authorized under section ~~11(2)~~ **11(8)** of this chapter; or
- (2) finance the establishment of liability or other loss insurance reserves or the contribution of such reserves or other capital to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses;

by issuing its bonds for the purpose of loaning the proceeds to a private institution of higher education for the cost of a project or to refund or refinance outstanding indebtedness or reimburse advances made in connection with a project in accordance with an agreement between the authority and the institution and in exchange for the institution's promissory note or notes. Any such promissory notes shall have the same principal amounts, maturities, and interest rates as the bonds so being issued, may be secured by a first mortgage lien on the educational facility so being financed or by a first mortgage lien or security interest in other real or personal property or funds acceptable to the authority subject to such exceptions as the authority may approve and created by a mortgage instrument or security agreement satisfactory to the authority, and may be insured or guaranteed by others. Any such bonds shall be payable solely out of the payments to be made on such promissory notes and under such agreement and shall not exceed in principal amount the cost of such educational facility, as determined by the private institution of higher education, or the necessary amount of these liability or other loss insurance reserves, and approved by the authority. In other respects any such bonds shall be subject to the provisions of section 15(c) of this chapter and the trust agreement or indenture creating such bonds may contain such of the provisions set forth in section 15(d) of this chapter as the authority may deem appropriate.

(b) In the event that an educational facility is financed and mortgaged pursuant to this section, the title to such facility shall remain in the private institution of higher education owning the same, subject to the lien of the mortgage securing the promissory notes then being purchased, and there shall be no lease of such facility between the authority and such institution.

(c) The provisions of section 14 of this chapter shall not apply to any educational facility or any liability or other loss insurance reserves financed pursuant to this section, but the authority shall return the promissory notes purchased through the issuance of bonds under this chapter to the private institution of higher education issuing such promissory notes when:

- (1) such bonds have been fully paid and retired or adequate provision has been made to pay and retire the same fully;
- (2) all other conditions of the trust agreement or indenture creating such bonds have been satisfied; and
- (3) the lien thereof has been released in accordance with the provisions thereof."

Page 143, line 28, delete "successor," and insert "**successor agency,**".

Page 143, line 40, after "successor" insert "**agency**".

Page 144, line 20, delete "successor," and insert "**successor agency,**".

Page 145, after line 37, begin a new paragraph and insert:

"SECTION 216. [EFFECTIVE JULY 1, 2005] **IC 6-3.1-9-1, IC 6-3.1-9-2, and IC 6-3.1-9-4, all as amended by this act, apply to applications for tax credits filed under IC 6-3.1-9 after June 30, 2005.**

SECTION 217. [EFFECTIVE JULY 1, 2005] (a) **Notwithstanding the transfer of responsibility for administration of the individual development accounts program to the lieutenant governor by P.L.4-2005, SECTION 151, beginning July 1, 2005:**

- (1) **the Indiana housing finance authority is responsible for the administration of the program;**
- (2) **any rules, policies, or guidelines adopted by the department of commerce or the lieutenant governor concerning the program are considered rules, policies, and guidelines of the Indiana housing finance authority until the authority adopts replacement rules, policies, or guidelines;**

(3) the Indiana housing finance authority becomes the owner of all property and obligations relating to the program; and

(4) any appropriations relating to the program are transferred to the Indiana housing finance authority.

(b) This SECTION expires July 1, 2007."

Renumber all SECTIONS consecutively.

(Reference is to SB 578 as reprinted March 1, 2005.)

and when so amended that said bill do pass.

Committee Vote: yeas 20, nays 0.

ESPICH, Chair

Report adopted.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 609, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 8, between lines 40 and 41, begin a new paragraph and insert: "SECTION 7. IC 6-3.5-1.1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 16. (a) For purposes of this chapter, an individual shall be treated as a resident of the county in which ~~he~~ **the individual**:

- (1) maintains a home, if the individual maintains only one (1) in Indiana;
- (2) if subdivision (1) does not apply, is registered to vote;
- (3) if neither subdivision (1) or (2) applies, registers ~~his~~ **the individual's** personal automobile; or
- (4) if neither subdivision (1), (2), or (3) applies, spends the majority of ~~his~~ **the individual's** time ~~spent~~ in Indiana during the taxable year in question.

(b) The residence or principal place of business or employment of an individual is to be determined on ~~January~~ **July** 1 of the calendar year in which the individual's taxable year commences. If an individual changes the location of ~~his~~ **the individual's** residence or principal place of employment or business to another county in Indiana ~~during after July 1 of a calendar year,~~ **his the individual's** liability for county adjusted gross income tax is not affected.

(c) Notwithstanding subsection (b), if an individual becomes a county taxpayer for purposes of IC 36-7-27 during a calendar year because the individual:

- (1) changes the location of the individual's residence to a county in which the individual begins employment or business at a qualified economic development tax project (as defined in IC 36-7-27-9); or
- (2) changes the location of the individual's principal place of employment or business to a qualified economic development tax project and does not reside in another county in which the county adjusted gross income tax is in effect;

the individual's adjusted gross income attributable to employment or business at the qualified economic development tax project is taxable only by the county containing the qualified economic development tax project."

Page 14, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 11. IC 6-3.5-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 20. (a) For purposes of this chapter, an individual shall be treated as a resident of the county in which ~~he~~ **the individual**:

- (1) maintains a home, if the individual maintains only one (1) in Indiana;
- (2) if subdivision (1) does not apply, is registered to vote;
- (3) if subdivision (1) or (2) does not apply, registers ~~his~~ **the individual's** personal automobile; or
- (4) if subdivision (1), (2), or (3) does not apply, spends the majority of ~~his~~ **the individual's** time ~~spent~~ in Indiana during the taxable year in question.

(b) The residence or principal place of business or employment of an individual is to be determined on ~~January~~ **July** 1 of the calendar year in which the individual's taxable year commences. If an individual changes the location of ~~his~~ **the individual's** residence or principal place of employment or business to another county in Indiana ~~during after July 1 of a calendar year,~~ **his the individual's**

liability for county option income tax is not affected.

(c) Notwithstanding subsection (b), if an individual becomes a county taxpayer for purposes of IC 36-7-27 during a calendar year because the individual:

(1) changes the location of the individual's residence to a county in which the individual begins employment or business at a qualified economic development tax project (as defined in IC 36-7-27-9); or

(2) changes the location of the individual's principal place of employment or business to a qualified economic development tax project and does not reside in another county in which the county option income tax is in effect;

the individual's adjusted gross income attributable to employment or business at the qualified economic development tax project is taxable only by the county containing the qualified economic development tax project."

Page 15, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 13. IC 6-3.5-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]; Sec. 17. (a) For purposes of this chapter, an individual shall be treated as a resident of the county in which the individual:

(1) maintains a home, if the individual maintains only one (1) home in Indiana;

(2) if subdivision (1) does not apply, is registered to vote;

(3) if subdivision (1) or (2) does not apply, registers the individual's personal automobile; or

(4) if subdivision (1), (2), or (3) does not apply, spends the majority of the individual's time in Indiana during the taxable year in question.

(b) The residence or principal place of business or employment of an individual is to be determined on ~~January~~ **July** 1 of the calendar year in which the individual's taxable year commences. If an individual changes location of residence or principal place of employment or business to another county in Indiana ~~during~~ **after July 1** of a calendar year, the individual's liability for county economic development income tax is not affected.

(c) Notwithstanding subsection (b), if an individual becomes a county taxpayer for purposes of IC 36-7-27 during a calendar year because the individual:

(1) changes the location of the individual's residence to a county in which the individual begins employment or business at a qualified economic development tax project (as defined in IC 36-7-27-9); or

(2) changes the location of the individual's principal place of employment or business to a qualified economic development tax project and does not reside in another county in which the county economic development income tax is in effect;

the individual's adjusted gross income attributable to employment or business at the qualified economic development tax project is taxable only by the county containing the qualified economic development tax project.

SECTION 14. IC 6-3.5-8-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]; Sec. 21. (a) For purposes of this chapter, an individual shall be treated as a resident municipal taxpayer of the municipality in which the individual:

(1) maintains a residence, if the individual maintains only one (1) residence in Indiana;

(2) if subdivision (1) does not apply, registers to vote;

(3) if subdivision (1) or (2) does not apply, registers the individual's personal automobile; or

(4) if subdivision (1), (2), or (3) does not apply, spends the majority of the individual's time in Indiana during the taxable year in question.

(b) Whether an individual is a resident municipal taxpayer is determined on ~~January~~ **July** 1 of the calendar year in which the individual's taxable year commences. If an individual changes the location of the individual's residence to another location in Indiana ~~during~~ **after July 1** of a calendar year, the individual's liability for municipal option income tax is not affected.

SECTION 15. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] IC 6-3.5-1.1-16, IC 6-3.5-6-20, IC 6-3.5-7-17, and IC 6-3.5-8-21, all as amended by this act, apply only to taxable years beginning after December 31, 2004."

Renumber all SECTIONS consecutively.

(Reference is to SB 609 as reprinted March 1, 2005.) and when so amended that said bill do pass.

Committee Vote: yeas 22, nays 0.

ESPICH, Chair

Report adopted.

OTHER BUSINESS ON THE SPEAKER'S TABLE

HOUSE MOTION

Mr. Speaker: I move that Representative Ayres be added as cosponsor of Engrossed Senate Bill 213.

FRIEND

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Stutzman be added as cosponsor of Engrossed Senate Bill 217.

WOLKINS

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representative Ayres be added as cosponsor of Engrossed Senate Bill 574.

BECKER

Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that Representatives Ayres, Turner, and Cherry be added as cosponsors of Engrossed Senate Bill 578.

BUELL

Motion prevailed.

Pursuant to House Rule 60, committee meetings were announced.

On the motion of Representative Bright, the House adjourned at 6:50 p.m., this seventeenth day of March, 2005, until Monday, March 21, 2005, at 1:30 p.m.

BRIAN C. BOSMA

Speaker of the House of Representatives

M. CAROLINE SPOTTS

Principal Clerk of the House of Representatives